



THE CITY OF SAN DIEGO

002377

City of San Diego  
Office of the City Clerk  
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San Diego, CA 92101  
(619) 533-4000

**Recommendations**  
Community Planning Group/  
Staff's/Planning Commission

Project Manager **must** complete the following information for the Council docket:

CASE NUMBER: Appeal of Kretowicz Residence - Project Number 138513

**Staff's:** DENY the Appeal; CERTIFY Negative Declaration No. 138513; APPROVE Site Development Permit No. 482270; and DENY Neighborhood Use Permit No. 581890.

**Planning Commission:**

**YEAS:** Commissioner Schultz, Naslund, Griswold, Ontai, & Golba

**NAYS:** None

**ABSTAINING:** Commissioner Otsuji and Smiley not present

**Recommended Action:** On October 9, 2008, the Planning Commission approved staff's alternative recommendation to Certify Negative Declaration No. 138513, Approve Site Development Permit No. 482270, and Deny Neighborhood Use Permit No. 581890.

**Community Planning Group:** La Jolla Community Planning Association

LIST NAME OF GROUP:

- ☐ No officially recognized community planning group for this area.
- ☐ Community Planning Group has been notified of this project and has not submitted a recommendation.
- ☐ Community Planning Group has been notified of this project and has not taken a position.
- ☒ **Community Planning Group has recommended approval of this project.**
- ☐ Community Planning Group has recommended denial of this project.
- ☐ This is a matter of City-wide effect. The following community group(s) have taken a position on the item:

In Favor:

Opposed:

By:

Jeffrey A. Peterson, Development Project Manager

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002379



THE CITY OF SAN DIEGO

## REPORT TO THE CITY COUNCIL

DATE ISSUED: November 26, 2008 REPORT NO.: 08-173

ATTENTION: Council President and City Council  
Agenda of December 2, 2008

SUBJECT: Appeal of the Kretowicz Residence-Project No. 138513, Council  
District 1, Process Four.

REFERENCE: Planning Commission Report No. PC-08-120 (Attachment 6).

REQUESTED ACTION: Should the City Council approve or deny the appeal of the Planning Commission's decision to approve previously constructed improvements and additions to an existing single-family residence, which includes a new trellis and jacuzzi; and the Planning Commission's decision to deny a proposed guest quarters on a 22,725 square foot site located at 7957 Princess Street in the La Jolla Community Plan Area?

STAFF RECOMMENDATION:

1. **CERTIFY** Negative Declaration No. 138513;
2. **DENY** the appeal; **APPROVE** Site Development Permit No. 482270; and
3. **DENY** Neighborhood Use Permit No. 581890.

SUMMARY:

Planning Commission Recommendation:

On October 9, 2008, the Planning Commission heard the proposed project and voted 5-0-2 to approve staff's alternative recommendation to Certify Negative Declaration No. 138513, Approve Site Development Permit No. 482270, and Deny Neighborhood Use Permit No. 581890. The motion was made by Commissioner Naslund, second by Commissioner Ontai, with Commissioner Otsuji recusing and Commissioner Smiley not present (Planning Commission Resolution No. 4463-PC).

At the hearing, the applicant had agreed to a Deed Restriction to waive all rights to future shoreline protective devices associated with the property, if the requested Site Development Permit No. 482270 was approved. Staff has reviewed the request in conjunction with the "Alternative Recommendation," and had agreed to the condition, Condition No. 29, which was added to the Site Development Permit (Attachment 7). In addition, language was added to the permit, item (g), for the correction of the original Site Development Permit No. 108967, which was recorded as Site Development Permit No. 8967 (correction of permit number only).



Background:

The project site is located at 7957 Princess Street (Attachment 1), the northern terminus of Princess Street, west of Spindrift Drive (Attachment 2). The site contains three legal lots, two of the lots are at the nexus of a coastal bluff and coastal canyon, and are located in the RS-1-7 Zone. The third lot is approximately 436 square feet in size and is located at the terminus of Princess Street, and is located in the SF Zone of the La Jolla Shores Planned District (Attachment 3). The site is within the La Jolla Community Plan Area, Coastal Overlay Zone (Appealable Area), Coastal Height Limitation Overlay Zone, Sensitive Coastal Overlay Zone, the Beach Impact Area of the Parking Impact Overlay Zone, Residential Tandem Parking Overlay Zone, and Transit Area Overlay Zone. The zoning designations allow for single family residential and the La Jolla Community Plan (LJCP) designates the proposed project site for single family use (5-9 dwelling units per acre). Princess Street is a public street and the cul-de-sac located at the terminus of the street is within the public right-of-way.

The property originally contained an existing two story single family residence constructed prior to 1915, and the prior owner of the property obtained three Coastal Development Permits (and one appeal) that were issued by the California Coastal Commission and the State Coastal Commission for several additions and modifications to the existing structure. A brief history of the coastal actions, appeals, litigation, and permits are located in Attachment 4-Permit History.

The property was purchased by the current applicant in 1993, and is developed with a two-story, 7,249 square foot, single family residence with an attached two car garage, and detached accessory structures. The property has undergone several improvements, modifications, and additions by the current owner that were constructed without obtaining an amendment to the original Coastal Development Permits and/or without obtaining building and public improvement permits pursuant to Neighborhood Code Compliance Department (NCCD) Case No. NC40952. On December 6, 2007, NCCD issued a Notice of Civil Penalty Hearing which was scheduled for December 18, 2007. After the public hearing, a Civil Penalty Administrative Enforcement Order was issued by the Administrative Hearing Officer on December 26, 2007 (Attachment 5). This order required the immediate cessation of all work at the property, payment of civil penalty and costs, and all violations to be added to the plans and included in Project No. 138513 (this project). A brief history of the current owner's coastal actions, appeals, litigation, permits, and Civil Penalty Hearing are located in Attachment 4-Permit History.

Project Description:

The proposed project includes improvements, modifications, and additions to the existing single-family residence, the project site, and the accessory structures that have been previously constructed as outlined in the Planning Commission Report No. PC-08-120 (Attachment 6). The request included a new trellis addition over the second floor deck and a new jacuzzi, which includes new retaining walls and a raised platform. An existing detached accessory building is located at the terminus of Princess Street and was approved on January 28, 1969, pursuant to Building Permit No. E40921, and a portion or 1/3 of this structure is within the public right-of-way. The applicant was proposing to use the



remodeled detached accessory building as a guest quarters. However, the approval of the Neighborhood Use Permit (NUP) for guest quarters would grant habitable living space/use within the public right-of-way, which creates a life and safety issue for those living and sleeping in the structure, a liability for the City, and did not benefit a public purpose. The Planning Commission denied the request for the NUP on the reasons stated above.

Development of the proposed project requires the approval of a Process 4 Site Development Permit (SDP) to amend SDP No. 108967 for development on a premise containing sensitive coastal bluffs, and for encroachments established and maintained in the public right-of-way when the applicant is not the record owner of the property on which the proposed encroachment will be located; and a NUP for a proposed guest quarters in the existing accessory building within the public right-of-way. Because the project utilizes renewable technologies and qualifies as a Sustainable Building under Council Policies 900-14 and 600-27, the land use approvals have been processed through the Affordable/In-Fill Housing and Sustainable Buildings Expedite Program.

The Coastal Development Permit (CDP) will be processed and issued by the California Coastal Commission (as an amendment to the original coastal development permit issued by the Commission) once all of the City's actions have been completed. A brief history of the current owner's coastal actions, appeals, and litigation are located in Attachment 4-Permit History.

#### APPEAL:

On October 23, 2008, an appeal application of the Planning Commission's decision and the Environmental Determination was submitted by Greg Rodriguez of Wertz McDade Wallace Moot and Brower representing George Krikorian, the next door neighbor from the proposed project site (Attachment 10). The grounds for the appeal were stated as the "Finding Not Supported" and "City-wide Significance." The following are the five descriptions of the grounds for the appeal with staff's response:

1. The certified Negative Declaration for the Project is inadequate since it fails to consider future development that will reasonably occur with approval of the Kretowicz Residence (the "Project"). Since an off-site public viewing area was never constructed, despite being a condition of the last amendment granted to the current Coastal Development Permit governing the property located at 7957 Princess Street, it is a "reasonably foreseeable" consequence of the Project that either an off-site public viewing area, coastal access near the Project site or funding for alternative coastal access will be part of the Project and all three possibilities should be considered in any environmental document for the Project. Thus, a new environmental document should be prepared by staff to address the potential environmental impacts of all reasonably foreseeable development as a result of the Project as required under the California Environmental Quality Act ("CEQA").

Staff Response: The City of San Diego, as Lead Agency under CEQA, conducted an Initial Study for the Project, which does not include an off-site public viewing area, and determined that the Project would not have a



significant effect on the environmental (direct physical change or a reasonably foreseeable indirect physical change to the environment), and a Negative Declaration was prepared.

The CDP will be processed and issued by the California Coastal Commission (as an amendment to the original CDP issued by the Commission) once all of the City's actions have been completed. The applicant did have a pending amendment application to their permit (California Coastal Commission Permit No. A-133-79-A2/F60760-A3) that was withdrawn on July 3, 2008, by the applicant. The amendment application did include a proposed public viewing area within the public right-of-way at the intersection of Spindrift Drive and Princess Street. However, during the course of this review by the California Coastal Commission it was determined that the proposed public viewing area was not necessarily viable and will not be included in any future applications.

The applicant will be responsible for coordinating with the California Coastal Commission and the City of San Diego once an application for an amendment to the original CDP has been filed. This application will address conditions from the original CDP for providing an alternative public viewshed and public access. However, the Project has already been designed to provide a proposed emergency lifeguard access along the eastern side of the property and no future physical changes will be required to accommodate this access. The California Coastal Commission is exclusively responsible for the CDP and or amendments pursuant to Section 126.0717 of the Land Development Code (LDC).

2. The Planning Commission failed to make findings as required under CEQA stating why a new and more comprehensive environmental document is not required despite a reasonably foreseeable consequence of the Project being that some type of coastal access will have to be granted and there is a fair argument that such coastal access may have a significant impact on the environmental and that such impacts may need to be mitigated to a level of insignificance, if not studied more comprehensively by an environmental impact report.

Staff Response: As stated above, the California Coastal Commission is exclusively responsible for the CDP and or amendments pursuant to Section 126.0717 of the LDC. This application will address conditions from the original CDP for providing an alternative public viewshed and public access. However, the Project has already been designed to provide a proposed emergency lifeguard access along the eastern side of the property and no future physical changes will be required to accommodate this access. The Initial Study for the Project determined that it would not have a significant effect on the environmental (direct physical change or a reasonably foreseeable indirect physical change to the environment), and a Negative Declaration was prepared. Therefore, the Planning Commission was able to determine that the Negative Declaration was the appropriate environmental document and was able to certify the document.



3. The property located at 7957 Princess Street has a "controversial" history with the City of San Diego, including numerous Code violations issued to the current owner dating back to 2001 and the need for a code compliance hearing to be held at the end of 2007. The decision of the Planning Commission is of City-wide significance and should be overturned since it inappropriately condones and rewards ignoring the law and the City's adopted land development procedures that have been carefully put in place. By approving the Project, the City weakens the important development review process that has been put in place to ensure community harmony and safety for the residents of San Diego.

Staff Response: The NCCD issued a Notice of Civil Penalty Hearing, which was held on December 18, 2007. After the public hearing, a Civil Penalty Administrative Enforcement Order was issued by the Administrative Hearing Officer on December 26, 2007 (Attachment 5). This order required the immediate cessation of all work at the property, payment of civil penalty and costs, and all violations to be added to the plans and included in Project No. 138513 (this project).

The fact that a Civil Penalty Hearing was held and all violations were included in the Project for the Planning Commission's consideration is a testimony that the City of San Diego does have the appropriate mechanisms in place to enforce its laws and the City's adopted land development procedures. Therefore, the decision of the Planning Commission does not have a City-wide significance and would not weaken the development review process.

4. Currently, there is a non-conforming detached structure that is part of the Project and which is located in the public right-of-way. The decision to allow this structure and other un-permitted improvements to remain in the public right-of-way is an issue of the City-wide significance, especially when one considers the need for emergency vehicle access to the home and structures surrounding the Project, and liability to the City should an accident occur to a person while inside the detached structure.

Staff Response: The existing detached accessory building is located at the terminus of Princess Street and was approved on January 28, 1969, pursuant to Building Permit No. E40921. A portion or 1/3 of this structure is within the public right-of-way and has previous conforming rights for the premise and use under the LDC. Princess Street is a public street and the cul-de-sac located at the terminus of the street is within the public right-of-way. Princess Street runs parallel to Spindrift Drive for approximately 2/3 of its length, and serves the proposed project site and two other single family residences before it connects to Spindrift Drive. Princess Street is a dedicated public street and emergency vehicle access would still be able to provide services to the three residences on the street. The improvements within the public right-of-way do not impair the function of Princess Street and are subject to removal under the provisions of an encroachment agreement. Therefore, the decision of the Planning Commission would not have a City-wide significance.



5. The Planning Commission failed to consider the history of Code violations on the property located at 7957 Princess Street and failed to impose conditions on the Permit granted to ensure the Applicant complies with the conditions of the Permit, Particularly with regard to the condition that the detached structures currently in the public right-of-way not be used for living or sleeping purposes. The need for such conditions is of City-wide significance due to the fact that these structures are located in the public right-of-way and may subject the City and the taxpayers to liability.

Staff Response: The history of the code violations were documented within the Planning Commission Report No. PC-08-120 and were presented at the public hearing prior to the Planning Commission's motion to Certify Negative Declaration No. 138513 and Approve Site Development Permit No. 482270; and Deny Neighborhood Use Permit No. 581890. The permit for the project does contain language that does restrict the use of the detached accessory building as noted in Site Development Permit Condition No. 32: "The detached accessory building located at the front of the property and partially within the public right-of-way shall not be used for living or sleeping purposes." Therefore, the Planning Commission did consider the history of code violations on the property as part of their decision and the project would not have a City-wide significance.

Conclusion:

The previously constructed improvements, modifications, and additions to the existing single-family residence are located within the existing foot print of the residence and are consistent with the development regulations. The proposed new jacuzzi and new trellis meets the intent of the regulations for the sensitive coastal bluffs guidelines and provides the required 5 feet setback from the established coastal bluff edge. The addition to the existing detached accessory building is consistent with the development regulations on size, location, and setbacks. The other accessory structures and improvements within the public right-of-way would not impair the function of the right-of-way and contains the provision for removal, relocation, or restore the Encroachment as directed by the City Engineer, or in the case of an emergency, as determined by the City. The granting of the Encroachment requires the Property Owner to defend, indemnify, protect and hold harmless the City, its agents, officers, and employees from and against any and all liability.

Therefore, staff recommends to the City Council to deny the appeal and uphold the Planning Commission's decision to Certify the Negative Declaration No. 138513, Approve the Site Development Permit No. 482270, and Deny the Neighborhood Use Permit No. 581890.

FISCAL CONSIDERATIONS: None with this action. All costs associated with the processing of this project are paid from a deposit account maintained by the applicant.

PREVIOUS COUNCIL and/or COMMITTEE ACTION: None



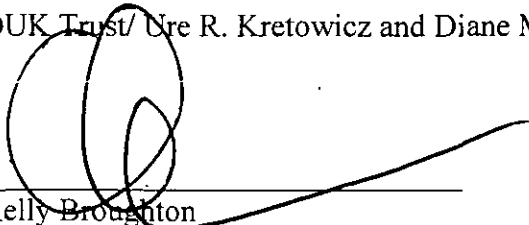
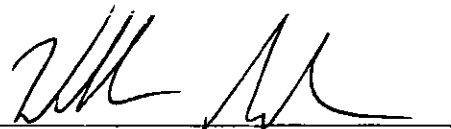
COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

On September 4, 2008, the La Jolla Community Planning Association voted 11-0-2 to recommend approval of the proposed project with conditions to exclude the proposed jacuzzi and the trellis on the seaward side which does not conform to the environmental sensitive lands guidelines and forward the recommendation to the City.

Staff Response: The proposed new jacuzzi and new trellis at the main second floor deck, located on the western portion of the property, would be located 5 feet from the established coastal bluff edge. Both structures would be located on top of existing retaining walls and columns that support the existing deck structure. The proposed structures are not adding additional load-bearing support structures that would result in geologic impacts to the sensitive coastal bluff; therefore, the proposed jacuzzi and trellis meets the intent of the regulations for the sensitive coastal bluffs guidelines and provides the required 5 feet setback from the established coastal bluff edge.

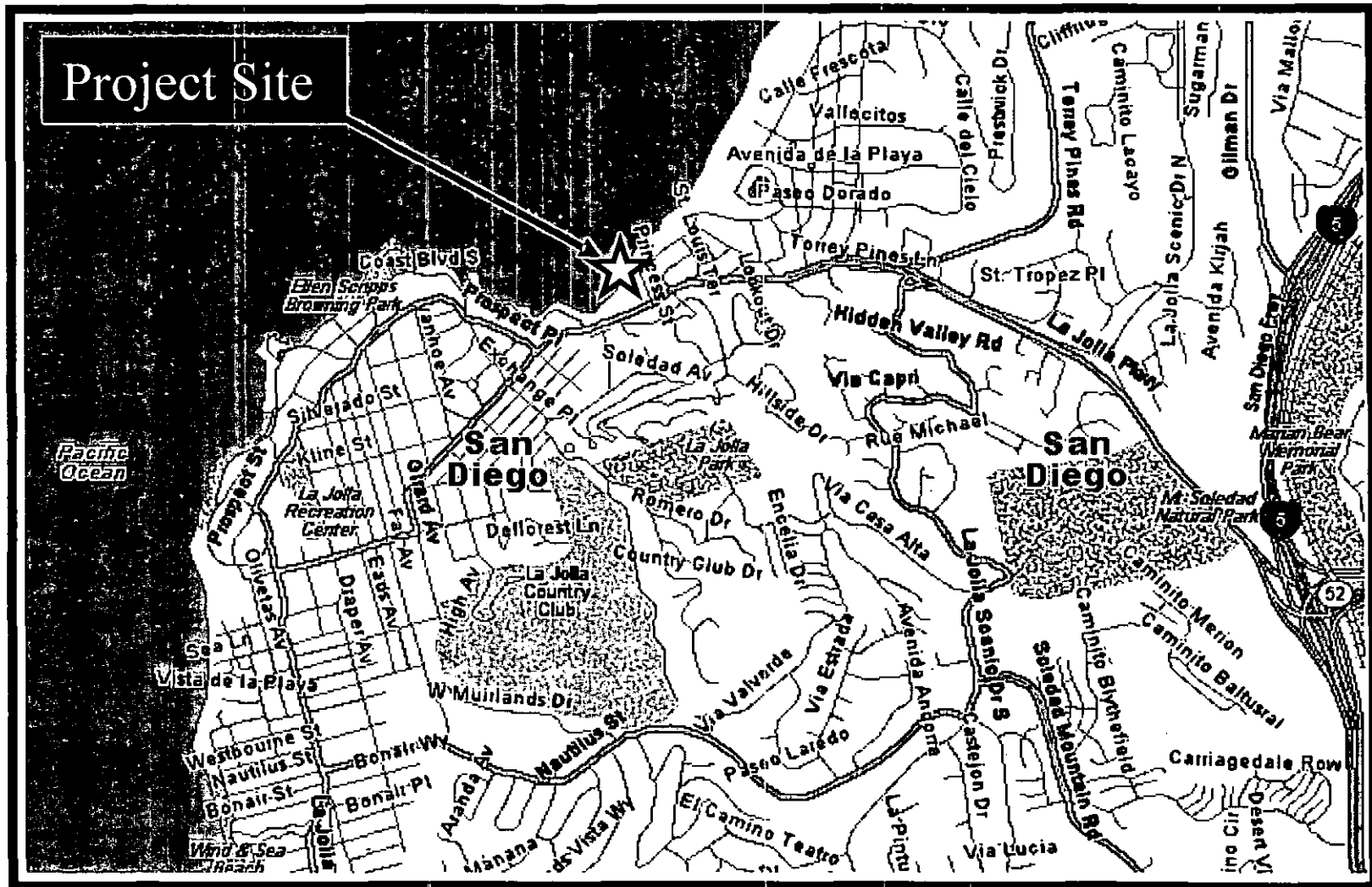
KEY STAKEHOLDERS (& Projected Impacts if applicable):

DUK Trust/ Ure R. Kretowicz and Diane M. Kretowicz

  
Kelly Broughton  
Director, Development Services Department  
William Anderson  
Deputy Chief Operating Officer:  
Executive Director of City Planning and  
DevelopmentATTACHMENTS:

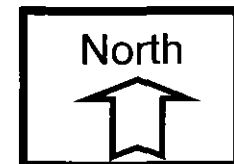
1. Project Location Map
2. Aerial Photograph
3. Zoning Map
4. Permit History
5. Civil Penalty Administrative Enforcement Order, December 26, 2007
6. Planning Commission Report No. PC-08-120
7. Site Development Permit No. 482270
8. Site Development Permit Resolution No. 4463-PC-1
9. Negative Declaration No. 138513 Resolution No. 4463-PC-2
10. Appeal Application dated October 23, 2008
11. Project Plans (11 x 17)



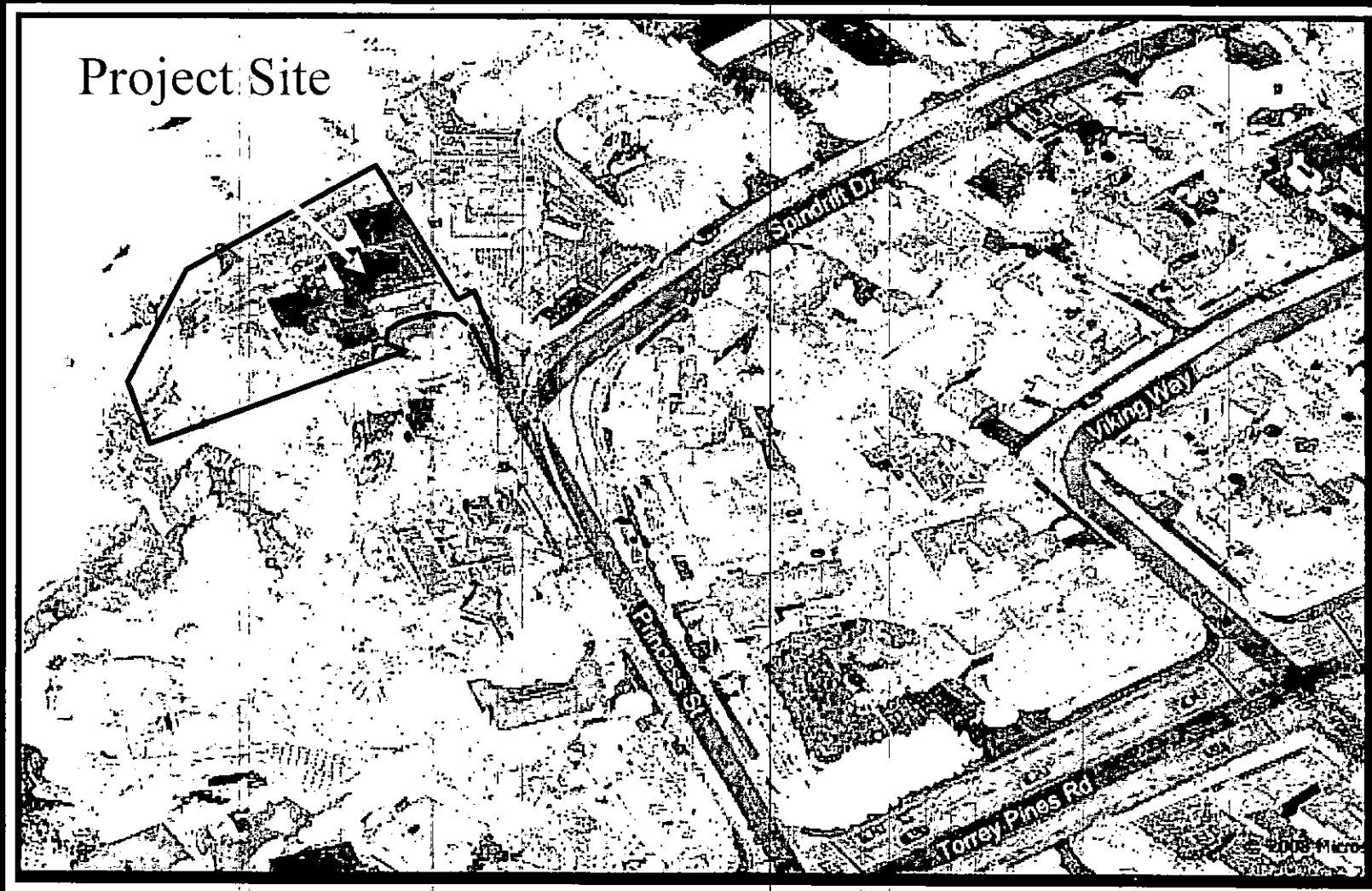


## Location Map

Kretowicz Residence - Project No. 138513  
7957 Princess Street





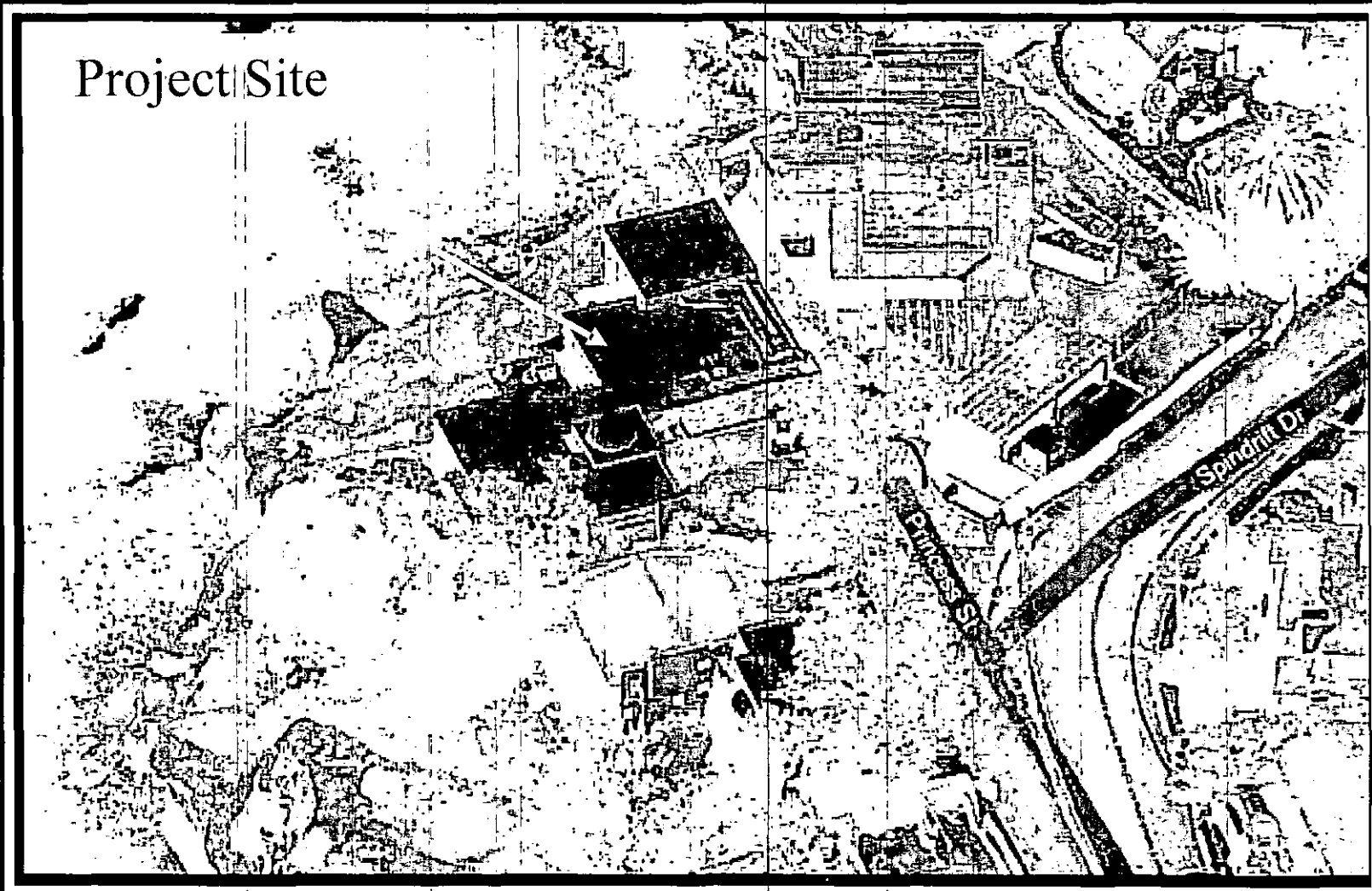


## Aerial Photo

Kretowicz Residence - Project No. 138513  
7957 Princess Street





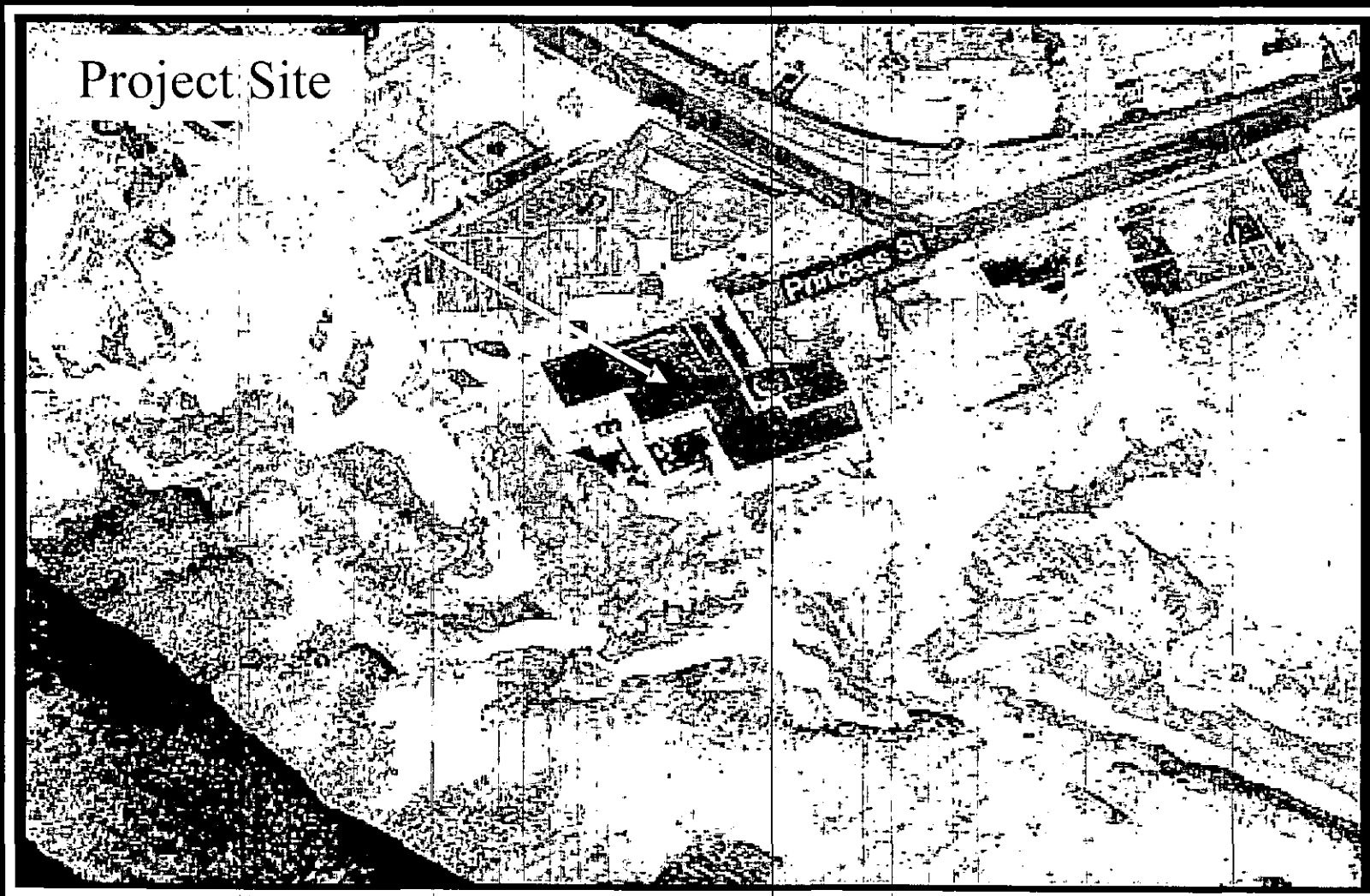


## Aerial Photo -Looking West (Enlarged)

Kretowicz Residence - Project No. 138513  
7957 Princess Street







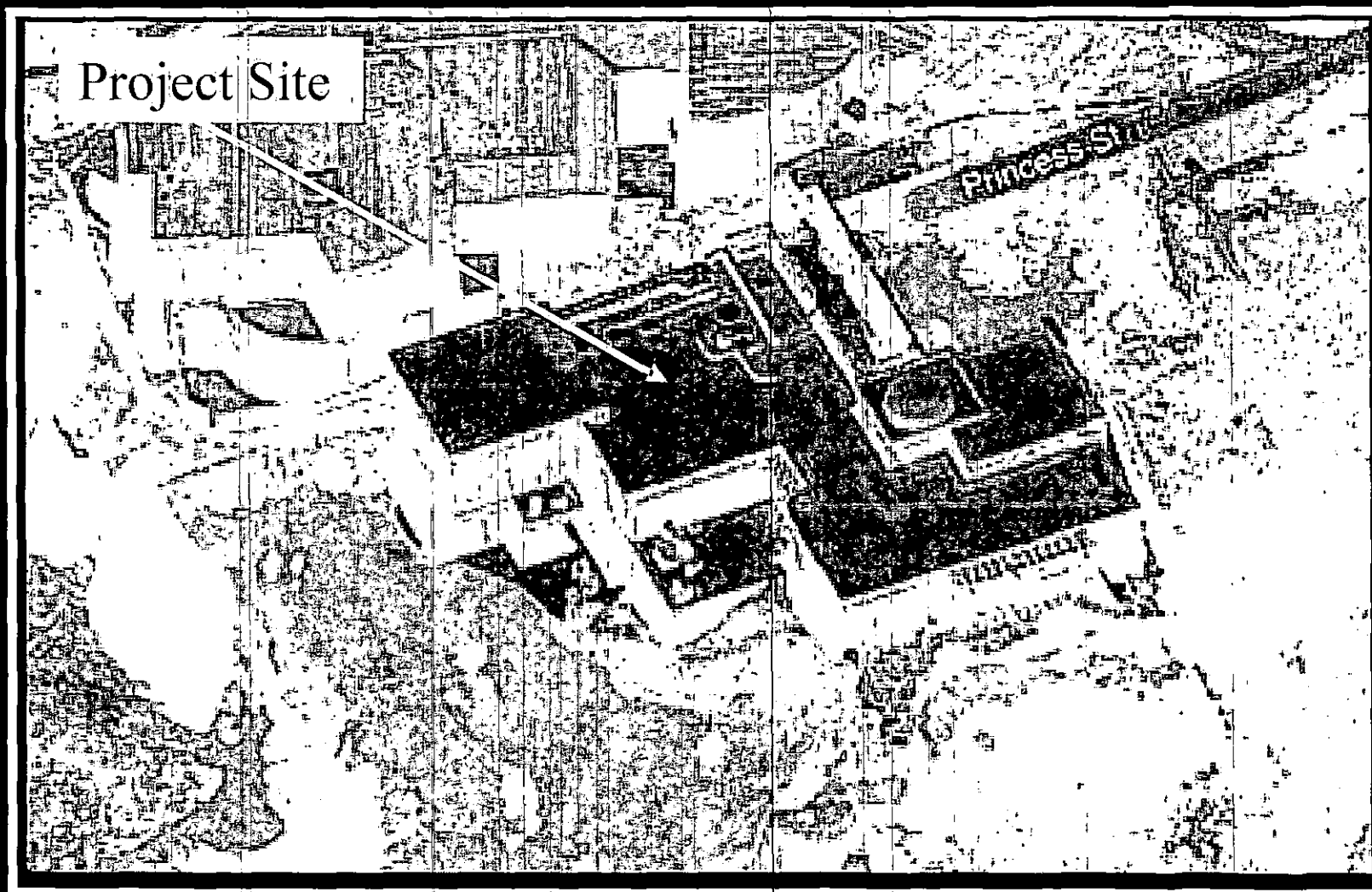
## Aerial Photo –Looking from Southwest

Kretowicz Residence - Project No. 138513

7957 Princess Street







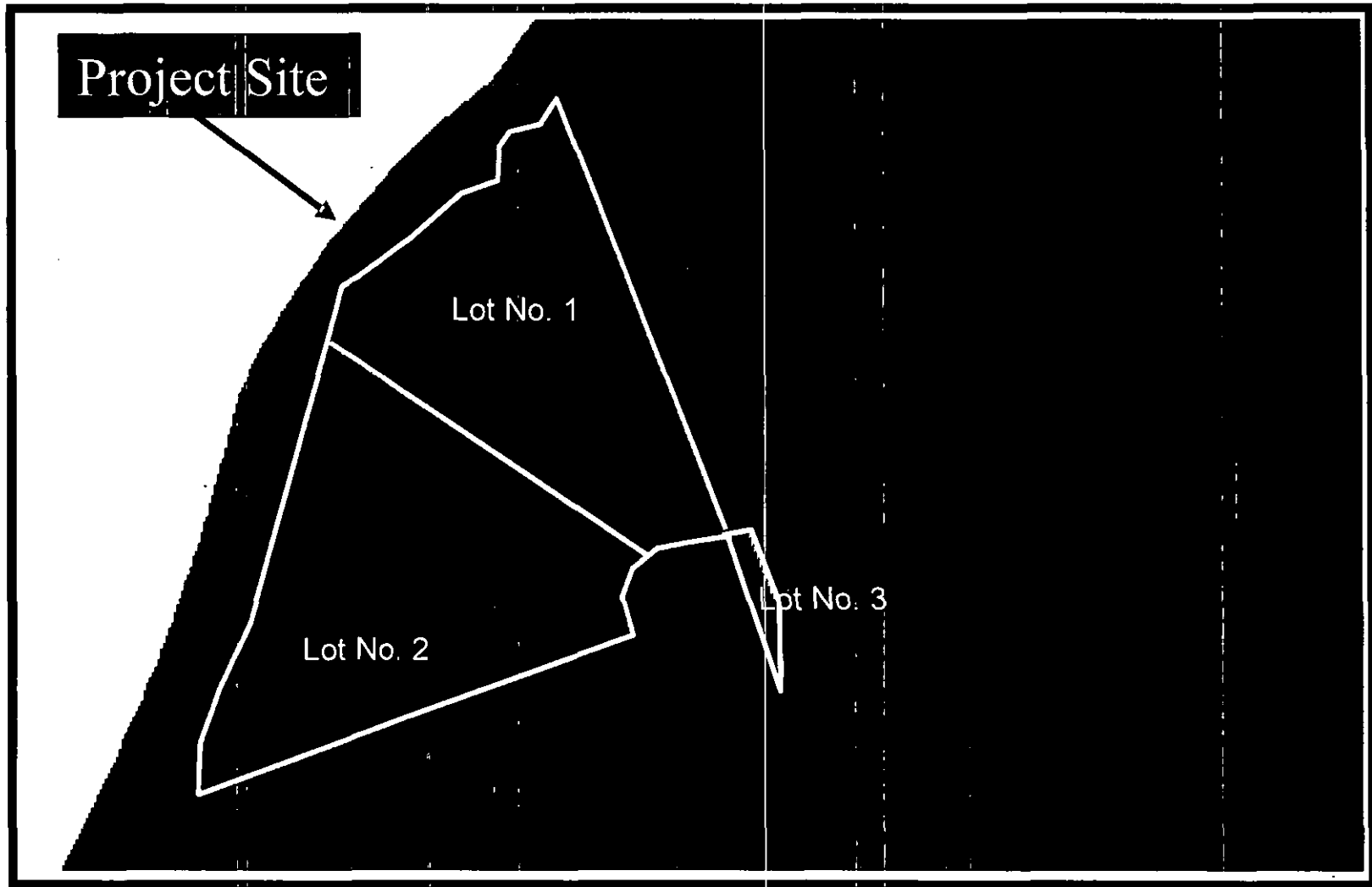
## Aerial Photo - Looking from South (Enlarged)

Kretowicz Residence - Project No. 138513

7957 Princess Street







## Zoning Map (Three Lots)

Kretowicz Residence - Project No. 138513  
7957 Princess Street





## **PERMIT HISTORY**

Permit History (Prior Owner): The original two-story Hopi house was constructed prior to 1915 and was approximately 1,456 square feet (Attachment 11-Plans, Sheet A-1.0(b)). In 1959 Building Permit No. B14412 was issued for the enclosure of an existing front porch, approximately 216 square feet (Attachment 11-Plans, Sheet A-1.0(c)). A new porch addition at the rear of the structure, approximately 182 square feet, and a new second floor addition, approximately 455 square feet, was approved on January 7, 1969, pursuant to Building Permit No. E38684 (Attachment 10-Plans, Sheet A-1.0(c)). A new detached accessory building labeled as "Photo Lab" located at the front property, approximately 209 square feet, was approved on January 28, 1969, pursuant to Building Permit No. E40921 (Attachment 11-Plans, Sheet A-1.0(e)).

On June 2, 1978, the California Coastal Commission, San Diego Coastal Regional Commission, (hereafter "Commission") approved a 3,066 square foot addition to the existing single family residence pursuant to Permit No. F6760. This permit was appealed to the State Coastal Commission by concerned citizens pursuant to Appeal No. 221-78. On July 18, 1978, the State Coastal Commission upheld the Commission's approval of the permit. On August 14, 1978, a building permit was issued for the construction pursuant to Building Permit No. M19031. In reliance upon this permit, the applicant commenced development.

On September 15, 1978, one of the concerned citizens (Anthony C. Ciani) filed a lawsuit against the Commission and State Coastal Commission for having failed to make a public access and recreation finding on the project as required by the Coastal Act. On February 27, 1979, A Finding of Fact and Conclusion of Law was issued by the Superior Court of the State of California regarding the public access and recreation finding. The court ruled that such a finding must be made and the matter was remanded to the Commission to make specific findings on the public access and recreation. It was made clear by the court that no other aspects of the approved project were to be reconsidered. After several hearings and much testimony, the Commission adopted findings which found the site inappropriate for vertical access and required no such access due to safety factors and lack of street parking among others. This decision was appealed to the State Coastal Commission, which on September 20, 1979, found that public access should be required and issued Permit No. A-133-79. This permit included a condition that required the applicant to record both a lateral (from the toe of the bluff to the mean high tide line) and vertical (five feet wide extending from the street down to the bluff along the southern property line) public access easements. A recent search of the records revealed that the easements were never offered and or recorded.

A condition of Permit No. F6760 required the applicant to submit a drainage plan to control runoff and that the plan be reviewed and determined adequate in writing by the staff engineer for the State Coastal Commission. On March 26, 1980, the applicant submitted an application to the Commission for an amendment to the original permit (F6760-A) to legitimize the drainage and runoff control measures which were implemented prior to the Commission approval. The Commission approved the amendment on April 4, 1980.



Coastal Permit Jurisdiction: The Local Coastal Program (LCP) was adopted by the City Council and certified by the State Coastal Commission. The City of San Diego obtained responsibility for issuing Coastal Development Permits from the State Coastal Commission in this area of the city on October 17, 1988.

Permit History (Kretowicz): The applicant (Ure and Diane Kretowicz) purchased the subject property in March 1993. The existing master bedroom area was remodeled into a new kitchen, pursuant to Building Permit No. C302021-98 approved on April 15, 1998 (Attachment 11-Plans, Sheet A-1.0(g)). On February 17, 2001, the Planning Commission approved Sensitive Coastal Resource/Coastal Development Permit No. 96-7148 for the removal of the previously constructed bluff improvements and approved the construction of a pool and spa, deck, retaining walls, area drains, landscaping, and provide an emergency access easement. This development application was originally submitted in the early 1997 in response to a code enforcement complaint filed earlier for constructing improper landscape and hardscape improvements onto the coastal bluff. The Planning Commission's approval required the removal of all bluff improvements in violation (including wood timber stairs, retaining walls, and palm trees). The non-drought tolerant plant material on the bluff was permitted to remain without irrigation, so that the removal of the landscape would not further impact the bluff. On March 2, 2001, the Planning Commission's approval was appealed to the City Council. On June 5, 2001, the City Council denied the appeal and approved Permit No. 96-7148 with one additional condition that a gate is to be installed and, if for any reason the lateral access is not dedicated, that it is made sure it is a conditional of the project approval.

The City Council's decision was appealed to the Commission on the basis of being inconsistent with the LCP and the conditions of the of the Commission's Permit. (Appeal No. A-6-LJS-01-95). On August 6, 2001, the Commission found that a Substantial Issue existed with respect to the grounds on which the appeal was filed. The de novo review of the City's permit application was subsequently scheduled for October 2001; however, this hearing was postponed by the applicant. On May 14, 2002, the project was withdrawn by the applicant, which resulted in no permit for the development by the City or the Coastal Commission. On December 21, 2001, the Commission issued a Notice of Violation (NOV) of the California Coastal Act, Violation File No. V-6-01-106. The applicant's attorney submitted a letter of intent regarding the NOV on January 4, 2002.

On April 2, 2002, the applicant was issued Engineering Permit No. W50238 for private enhanced concrete pavement within the public right-of-way at the terminus of Princess Street. On February 28, 2006, the applicant was approved for a construction change to the engineering permit to install exposed aggregate pavement and this work has been completed.

On May 1, 2002, the City's Neighborhood Code Compliance Department (NCCD) was contacted for construction on the project site without permits. NCCD conducted an inspection and found un-permitted excavation being done in the garage. The City of San Diego filed a lawsuit against the applicant and on April 14, 2004, and a "Stipulated Judgment" was entered into with the applicant and the City of San Diego, which required the concurrent processing to amend Coastal Development Permit No. A-133-79/F6760



(both permit numbers combined as one) with the Commission and process a Site Development Permit (SDP) with the City to resolve the outstanding issues.

On April 23, 2004, the applicant submitted an application with the City for a SDP to allow for the previous garage modifications, retaining walls, rear yard improvements, and an easement for emergency lifeguard access. The SDP No. 108967 (recorded as No. 8967) was approved on January 26, 2005. On February 11, 2005, the applicant submitted an application with the Commission to amend the Coastal Development Permit (Application No. A-133-79-A1/F6760-A2). In June 2005, the Commission reviewed the amendment to 1) replace the requirement that the property owner offer to dedicate (OTD) a vertical public access easement with a) an easement for emergency lifeguard access and b) contribute \$10,000.00 for public access improvements in the La Jolla area; 2) remove un-permitted improvements including, but not limited to, wooden timber stairs, retaining walls and palm trees on the face of the coastal bluff; 3) modify an existing retaining wall located in the yard (bluff top) of the site; and 4) install patio, barbecue, landscaping and modifications to the existing garage, including a car lift and storage. The Commission denied the applicant's request to revise the OTD requirements, but approved the other proposed improvements, except those located within the alignment of the access easement or those that could interfere with use of the access in the future. The applicant subsequently filed a lawsuit against the Commission regarding their decision (Case No. GIC 851915). In early 2007, a "Stipulated Judgment" was entered into with the applicant and the Commission, which allowed a new application to be submitted with the Commission to amend the Coastal Development Permit Application No. A-133-79-A2/F6760-A3. This application was submitted on April 3, 2007, and withdrawn by the applicant on July 3, 2008. The applicant will submit a new coastal development permit application to the Commission once all of the City's actions have been completed.

Civil Penalty Hearing: On May 6, 2005, the City's NCCD was contacted for construction on the project site without permits. NCCD conducted several inspections (September 12, 2005; August 14, 2006; August 24, 2006; March 19, 2007; August 7, 2007; November 8, 2007; and November 9, 2007) and was observed to be in violation, but not limited to un-permitted block walls, retaining walls, additions to the lower level (access to the interior space was denied), new deck on the second floor, upper level addition and modifications to the interior, addition and modification to the accessory structure in the front of the property, construction of masonry walls in the public right-of-way and the view corridor, garage modifications, and landscaping and irrigation on the coastal bluff in violation of the SDP No. 108967 that was approved on January 26, 2005. After several requests to Stop Work, the NCCD issued a Civil Penalty Notice & Order (CPNO), dated November 14, 2007. On December 6, 2007, NCCD issued a Notice of Civil Penalty Hearing which was scheduled for December 18, 2007. After the public hearing, a Civil Penalty Administrative Enforcement Order was issued by the Administrative Hearing Officer on December 26, 2007 (Attachment 5). This order required the immediate cessation of all work at the property, payment of civil penalty and costs, and all violations noted in the CPNO to be added to the plans and included in Project No. 138513. This order included requirements for submitting for the ministerial permits, construction, and final inspections.



Mandel E. Himmelstein  
 Attorney at Law  
 P.O. Box 180519  
 Coronado, CA 92178  
 State Bar No. 174997

Administrative Hearing Officer,  
 City of San Diego

IN THE MATTER OF	)	
	)	
Ure Richard Kretowicz	)	
DUK Trust 9/9/94	)	
7957 Princess Street	)	CIVIL PENALTY
	)	ADMINISTRATIVE ENFORCEMENT ORDER
San Diego, CA	)	
_____	)	

STATEMENT OF THE CASE

This matter came on regularly for hearing before Mandel E. Himmelstein, Administrative Hearing Officer for the City of San Diego on December 18, 2007 at 1:00 p.m. at The Neighborhood Code Compliance Department (NCCD), and was heard on that date, notice duly and regularly given.

The purpose of the hearing was to determine whether the Responsible Person has caused or maintained a violation of the Municipal Code or applicable State Code that existed on the dates specified in the Notice and Order; and whether the amount of civil penalties assessed by the Director pursuant to the procedures and criteria outlined in Section 12.0805 were reasonable.

Melody Negrete, Code Enforcement Coordinator, Jeff Peterson, Project Manager, Samuel Lindsay, Structural Inspector, Michael Wisnieski, Senior Land Development Investigator, Eric Picou, Land Development Investigator II, Tanya Rodin, Senior Combination Inspector, and Duke Hernandez, Land Development Investigator II appeared on behalf of The City of San Diego. Appellant appeared on his own behalf, accompanied by his architect, Claude Marengo.

The documents identified on and attached to the City Civil Penalty Hearing packet were introduced by the City and identified as Exhibits C-1 through C-35. The City of San Diego introduced a replacement C-3, replacement C-15 and



Exhibits C-36 and C-37 during the hearing. The Appellant did not offer documentary evidence. All documents were received into evidence.

II  
FINDINGS OF FACT

1. Appellant owns the property at 7957 Princess Street, La Jolla, CA (PROPERTY). The PROPERTY is located on a bluff top. The PROPERTY was built in 1915 and underwent permitted modification in 1969, 1978 and 1998. The last permitted work was completed by Appellant.

Prior to Appellant's ownership, the PROPERTY already had a long history of code violations. The PROPERTY is under the jurisdiction of the California Coastal Commission (CCC) as to code enforcement and required coastal development permits (CDP), and the City of San Diego as to required site development permits (SDP).

There is a history of violations by this Appellant from at least 2001. A Notice of Violation was issued by the CCC in 2001 and at least two stop work orders were issued in 2001 and 2002. There have been two stipulated judgments, one in 2004 and one in 2005. There is existing litigation between Appellant and the CCC concerning the CDP.

NCCD has conducted at least 16 site inspections between 2001 and the date of this hearing. Neighbors have petitioned the City for action to enforce the Municipal Code and stop violations by Appellant.

Notwithstanding continuous site inspections, meetings with Appellant, correspondence, telephone conferences, meetings with counsel and the issuance of notices and citations, Appellant has not complied. Unpermitted ongoing construction continued to the date of this hearing.

2. As of the date of this hearing, unpermitted construction at the PROPERTY includes:
  1. a new deck
  2. a new deck cover
  3. a cantilevered balcony
  4. a new exterior wall
  5. a new fireplace
  6. remodeled garage, kitchen and bar
  7. staircase
  8. front entry wall and door
  9. auxiliary structure (AS), walls and remodel.
  10. new bathroom
  11. several other improvements.



3. On November 14, 2007, a Civil Penalty Notice and Order (CPNO) was issued to Appellant citing these violations and requiring compliance, by immediately ceasing all development and taking steps to obtain required permits.

The City assessed \$5,000.00 per day for 34 days of the violations, totaling \$170,000.00.

The CPNO detailed the violations of the San Diego Municipal Code (SDMC) as follows:

1. 1510.0107 – La Jolla Shores Plan District
2. 121.0302(B)(2) – Land Development Code
3. 126.0723 – Coastal Development Permit
4. 143.0110(a)(1) – Environmentally Sensitive Lands (ESL)
5. 143.0112 – ESL Permit Requirements
6. 143.0141(i) – Sensitive Biological Resources
7. 143.0160 – Remedies
8. 143.0210 – Historical Resources Regulations
9. 143.0211 – Permit Requirements
10. 143.0212 – Site-Specific Survey
11. 143.0280 – Historical Resources Guidelines
12. 142.0144 – Grading Within ESL
13. 129.0202 – Building Permits
14. 129.0204 – Application
15. 129.0302 – Electrical Permits
16. 129.0402 – Plumbing Permits

Appellant has not corrected these violations.

4. Appellant does not deny the allegations of the CPNO nor the PROPERTY history. Appellant is cooperative, but non-compliant. Except for construction involving the AS because of flood damage, Appellant does not excuse his actions and intends to immediately comply. He maintains that he is simultaneously working with the CCC to amend the CDP or obtain a new CDP.

Appellant acknowledges that the entire structure has been modified without permit.

5. Appellant violated and continues in violation of each section of the SDMC set forth in the CPNO.
6. All Notices and Orders including Notice of Time and Place of This Hearing were served upon Appellant according to law.
7. The Responsible Party is Appellant.



8. The City of San Diego expended costs of \$6,057.59 in this case.

### III

#### DETERMINATION OF ISSUES

1. By reason of the facts found in Findings of Fact paragraph 7, Appellant is the Responsible Party.
2. By reason of the facts found in Findings of Fact paragraph 6, the Appellant was notified of the Notice and Order of Civil Penalties and this Administrative Hearing.
3. By reason of the facts found in Findings of Fact paragraph numbers 1, 2, 3, 4, 5 and 7, the Appellant failed to comply with the Civil Penalty Notice and Order.
4. By reason of the facts found in Findings of Fact paragraph numbers 1, 2, 3, 4 and 5, Appellant violated the SDMC Code as listed in Paragraph 1.
5. By reason of the facts found in Findings of Fact paragraph numbers 1, 2, 3, 4, 5 and 7, the civil penalty assessed against Appellant in the amount of \$170,000.00 is affirmed. Administrative costs of \$6,057.59 are awarded to the City of San Diego.

### IV

#### ORDER

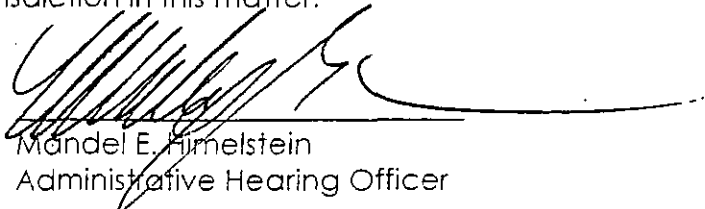
THEREFORE, the following order is made:

1. Appellant is ordered to pay \$50,000.00 in civil penalties plus administrative costs of \$6,057.59 for a total of \$56,057.59. Payment shall be made to the City Treasurer upon receipt of invoice.
2. The balance of \$120,000.00 is stayed pending Appellant's timely compliance with the following:
  - A. Payment of civil penalty and costs.
  - B. Immediate cessation of all work at the PROPERTY.
  - C. On or before March 18, 2008, submit all additional documents, plans and reports required in accordance with assessment letter dated October 5, 2007, including plans depicting violations noted in the CPNO. This submittal will be added to Project #138513.



- D. Each additional submittal required by Development Services Department (DSD) must be submitted and complete within 90 calendar days from the date of issuance of each assessment letter.
  - E. Upon approval of Project #138513 by DSD and CCC, submit application for ministerial permits for the project within 90 calendar days.
  - F. Begin construction within 30 calendar days from the date of approval of ministerial permits.
  - G. Obtain all final inspections and approvals within 120 calendar days from the date construction is required to begin.
3. If Appellant timely complies with this Order, the balance of \$120,000.00 is dismissed; if Appellant shall fail to so comply, the balance of \$120,000.00 is awarded and payable to the City of San Diego upon receipt of invoice.
  4. The penalties and administrative costs shall be both a special assessment lien against the PROPERTY and a personal lien against the Appellant and may be recovered by the use of all appropriate legal means.
  5. The Hearing Officer retains jurisdiction in this matter.

Dated: December 26, 2007

  
Mandel E. Himmelstein  
Administrative Hearing Officer



002401



ATTACHMENT 6  
Report No. PC-08-120

THE CITY OF SAN DIEGO

## REPORT TO THE PLANNING COMMISSION

DATE ISSUED: September 25, 2008 REPORT NO. PC-08-120

ATTENTION: Planning Commission, Agenda of October 2, 2008

SUBJECT: KRETOWICZ RESIDENCE - PROJECT NO. 138513,  
PROCESS FOUR

REFERENCES: California Coastal Commission Permit No. F6760, dated June 2, 1978 (Attachment 7); State Coastal Commission Appeal No. 221-78 (Attachment 8); California Coastal Commission Permit No. A-133-79, dated September 20, 1979 (Attachment 9); California Coastal Commission Permit No. F60760-A, dated March 26, 1980 (Attachment 10); Site Development Permit No. 8967, dated January 26, 2005 (Attachment 11); and Amendment to the California Coastal Commission Permit No. A-133-79-A2/F60760-A3 (Attachment 12).

OWNER/ DUK Trust/  
APPLICANT: Ure R. Kretowicz and Diane M. Kretowicz

### SUMMARY

**Issues:** Should approve the previously constructed improvements and additions to an existing single-family residence, which includes a proposed guest quarters, a new trellis, and jacuzzi, on a 22,725 square foot site located at 7957 Princess Street in the La Jolla Community Plan Area?

### Staff Recommendation:

1. DO NOT CERTIFY Negative Declaration No. 138513;
2. DENY Site Development Permit No. 482270; and
3. DENY Neighborhood Use Permit No. 581890.

**Community Planning Group Recommendation:** On September 4, 2008, the La Jolla Community Planning Association voted 11-0-2 to recommend approval of the proposed project with conditions (Attachment 23).



**Environmental Review:** A Negative Declaration No. 138513 has been prepared for the project in accordance with the State of the California Environmental Quality Act (CEQA) Guidelines.

**Fiscal Impact Statement:** None with this action. All costs associated with the processing of this project are paid from a deposit account maintained by the applicant.

**Code Enforcement Impact:** A Neighborhood Code Compliance Case (No. NC40952) is currently active at this property for previously constructed improvements and additions to an existing single-family residence that were constructed without obtaining an amendment to the original Coastal Commission Permit and/or without obtaining building and public improvement permits.

**Housing Impact Statement:** None with this action.

## **BACKGROUND**

The project site is located at 7957 Princess Street (Attachment 1), the northern terminus of Princess Street, west of Spindrift Drive (Attachment 2). The site contains three legal lots, two of the lots are at the nexus of a coastal bluff and coastal canyon, and are located in the RS-1-7 Zone. The third lot is approximately 436 square feet in size and is located at the terminus of Princess Street, and is located in the SF Zone of the La Jolla Shores Planned District (Attachment 3). The site is within the La Jolla Community Plan Area (Attachment 4), Coastal Overlay Zone (Appealable Area), Coastal Height Limitation Overlay Zone, Sensitive Coastal Overlay Zone, the Beach Impact Area of the Parking Impact Overlay Zone, Residential Tandem Parking Overlay Zone, and Transit Area Overlay Zone. The zoning designations allow for single family residential and the La Jolla Community Plan (LJCP) designates the proposed project site for single family use (5-9 dwelling units per acre). Princess Street is a public street and the cul-de-sac located at the terminus of the street is within the public right-of-way.

The property originally contained an existing two story single family residence constructed prior to 1915, and the prior owner of the property obtained three Coastal Development Permits (and one appeal) that were issued by the California Coastal Commission and the State Coastal Commission for several additions and modifications to the existing structure (Attachment 7-10). A brief history of the coastal actions, appeals, litigation, and permits are located in Attachment 6-Permit History.

The property was purchased by the current applicant in 1993, and is developed with a two-story, 7,249 square foot, single family residence with an attached two car garage, and detached accessory structures. The property has undergone several improvements, modifications, and additions by the current owner that were constructed without obtaining an amendment to the original Coastal Development Permits and/or without obtaining building and public improvement permits pursuant to Neighborhood Code Compliance Department (NCCD) Case No. NC40952. On December 6, 2007, NCCD issued a Notice of Civil Penalty Hearing which was scheduled for December 18, 2007 (Attachment 18). After the public hearing, a Civil Penalty Administrative Enforcement Order was issued by the Administrative Hearing Officer on



December 26, 2007 (Attachment 19). This order required the immediate cessation of all work at the property, payment of civil penalty and costs, and all violations to be added to the plans and included in Project No. 138513 (this project). A brief history of the current owner's coastal actions, appeals, litigation, permits, and Civil Penalty Hearing are located in Attachment 6- Permit History.

## **DISCUSSION**

### **Project Description:**

The proposed project includes improvements, modifications, and additions to the existing single-family residence, the project site, and the accessory structures that have been previously constructed. This includes the removal of an existing interior wall and portions of an exterior wall on the lower level (Attachment 13- Sheet A-1.2), for the addition of approximately 760 square feet (only 480 square feet is included in the floor area ratio) and a complete remodeling of the existing area (Attachment 13- Sheet A-2.0). All of the upper level interior walls and portions of the exterior walls were removed and or modified, and portions of the existing deck were removed (Attachment 13- Sheet A-1.3). The existing master bedroom area was remodeled into a new kitchen, pursuant to Building Permit No. C302021-98 approved on April 15, 1998. However, a portion of the new kitchen area does not match the approved plans and the permit did not include the remodeling of the old kitchen area (Attachment 13- Sheet A-1.3). The improvements and modifications to the upper level includes all new interior walls and portions of new exterior walls, new fireplace, reconstructed deck, new cantilevered balcony, new deck cover, and modifications to the garage and front entry walls (Attachment 13- Sheet A-2.1).

An existing detached accessory building is located at the terminus of Princess Street and was approved on January 28, 1969, pursuant to Building Permit No. E40921 (Attachment 13-Plans, Sheet A-1.0(e)). A portion or 1/3 of this structure is within the public right-of-way and the remaining 2/3 of this structure is within the small lot that is located in the La Jolla Shores Planned District. The building records for the detached accessory building indicate that the structure was a "Photo Lab," a non-habitable accessory use. A portion of the existing exterior walls were removed (Attachment 13- Sheet A-1.3), for a 52 square foot bathroom addition and the remaining existing exterior walls were modified (Attachment 13- Sheet A-2.1).

The existing retaining wall along the northern property line, in front of the existing detached accessory building, was raised approximately two to three feet to a height of seven-foot 6-inches (reduces to a height of five-feet six inches at the front property line), and a new seven-foot six-inch block wall (reduces to a height of five-feet six inches at the front property line) was constructed within the public right-of-way (Attachment 13- Sheet A-1.0 and Sheet A-5.0). A new seven-foot 6-inch trash enclosure and gate were installed, and a new gate was installed along the eastern side of the garage.

The applicant is proposing to use the remodeled detached accessory building as a guest quarters, and is requesting a trellis addition over the second floor deck and a new jacuzzi, which includes new retaining walls and a raised platform (Attachment 13- Sheet A-2.1). The addition to the existing detached accessory building is consistent with the development regulations on size,



location, and setbacks; however, the approval of the guest quarters would grant habitable living space/use within the public right-of-way, which creates a life and safety issue for those living and sleeping in the structure, a liability for the City, and does not benefit a public purpose.

The proposed new jacuzzi and new trellis at the main second floor deck, located on the western portion of the property, would be located 5 feet from the established coastal bluff edge. Both structures would be located on top of existing retaining walls and columns that support the existing deck structure. This deck was permitted in 1978 with the approval of the main addition to the existing single family residence. The intent of the environmentally sensitive lands (ESL) regulations, which includes the sensitive coastal bluffs, is to assure that development occurs in a manner that protects the overall quality of the resources and the natural and topographic character of an area, and encourages a sensitive form of development. Both of proposed structures are not adding additional load-bearing support structures that would impact geologic conditions of the sensitive coastal bluff; therefore, the proposed jacuzzi and trellis meets the intent of the regulations for the sensitive coastal bluffs guidelines and provides the required 5 feet setback from the established coastal bluff edge.

Development of the proposed project requires the approval of a Process 4 Site Development Permit (SDP) to amend SDP No. 108967 for development on a premise containing sensitive coastal bluffs, and for encroachments established and maintained in the public right-of-way when the applicant is not the record owner of the property on which the proposed encroachment will be located; and a Neighborhood Use Permit (NUP) for a proposed Guest Quarters in the existing structure within the public right-of-way. Because the project utilizes renewable technologies and qualifies as a Sustainable Building under Council Policies 900-14 and 600-27, the land use approvals have been processed through the Affordable/In-Fill Housing and Sustainable Buildings Expedite Program.

The Coastal Development Permit will be processed and issued by the California Coastal Commission (as an amendment to the original coastal development permit issued by the Commission) once all of the City's actions have been completed. The applicant did have a pending amendment application to their permit (California Coastal Commission Permit No. A-133-79-A2/F60760-A3), that application was withdrawn on July 3, 2008, by the applicant. A new application will be submitted to the Commission by the applicant once all of the City's actions have been completed; therefore, the Commission is exclusively responsible for the Coastal Development Permit and or amendments pursuant to Section 126.0717 of the LDC. A brief history of the current owner's coastal actions, appeals, and litigation are located in Attachment 6-Permit History.

#### **La Jolla Shores Planned District Ordinance Analysis:**

The site contains three legal lots, which of the lots are located in the RS-1-7 Zone. The third lot is approximately 436 square feet in size and is located at the terminus of Princess Street, and is located in the SF Zone of the La Jolla Shores Planned District. This lot contains the existing detached accessory building located at the terminus of Princess Street, which was approved on January 28, 1969, pursuant to Building Permit No. E40921. A portion or 1/3 of the structure is within the public right-of-way and the remaining 2/3 of the structure is with the small lot that is



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located in the La Jolla Shores Planned District (LJSPD). The previously constructed 52 square foot bathroom addition, retaining wall, and fences would be considered minor in scope. Therefore, the proposed project would not require a SDP for development in the LJSPD or a recommendation from the LJSPD Advisory Board pursuant to Section 1510.0201(d) of the LDC.

#### **Community Plan Analysis:**

The project site is located at 7957 Princess Street, the northern terminus of Princess Street, west of Spindrift Drive within the La Jolla Community Plan Area (LJCP). The community plan designates the proposed project site for single family use (5-9 dwelling units per acre). This range is characterized by single dwelling unit residential homes on 5,000-7,000 square foot lots. Approximately 20 percent of the community planning area is developed through this category which is implemented through the RS-1-7 zone. The proposed project is consistent with the community plans with respect to density.

The project site is located in an identified scenic overlook in the LJCP Subarea D, which is described as a scenic view over private properties from a public right-of-way along Princess Street. Additionally, the community plan sites this lot within a major viewshed, an unobstructed panoramic view from a public vantage point from Spindrift Drive (Attachment 20). The proposed addition and remodel to the existing residence would not create any obstruction of these identified viewsheds as the residence is situated much lower than the level of the right-of-way from where the view is observed. The existing view from these identified public viewing locations toward the ocean would not result in any substantial changes.

As a condition of a permit for the single-family residence at 7957 Princess Street, the State Coastal Commission required the applicant to record both lateral (from the toe of the bluff to the mean high tide line) and vertical (five feet wide extending from the street down to the bluff along the southern property line) public access easements. A recent search of the records revealed that the easements were never offered and/or recorded. The Coastal Development Permit will be processed and issued by the California Coastal Commission (as an amendment to the original coastal development permit issued by the Commission) once all of the City's actions have been completed; therefore, the Commission is exclusively responsible for the Coastal Development Permit and/or amendments which include all requirements and or conditions for both the lateral and vertical public access easements.

#### **Environmental Analysis:**

The City of San Diego conducted an Initial Study and determined that the proposed project will not have a significant environmental effect and the preparation of an Environmental Impact Report will not be required. Therefore, a Negative Declaration No. 138513 has been prepared for the project in accordance with the State of the California Environmental Quality Act (CEQA) Guidelines. The analysis from the Initial Study documents the reasons to support the determination as follows:

**Historical Resources (Archaeology)**- The project site is located in a high sensitivity area for archaeological resources, and within close proximity to a recorded significant archaeological site



(Spindrift site). An archaeological report, prepared by Jones and Stokes Associates, dated February, 2008, was submitted which included a testing program and survey of the project site. The investigations consisted of four shovel test pits (STP's) which measured 50 centimeters by 30 centimeters and were excavated to a depth of 100 centimeters. The purpose of the investigation was to determine the presence or absence of cultural material that could be related to the Spindrift site. Following consultation with Red Tail Native American Monitoring, it was concluded that the two pieces of debitage discovered on the site were derived from highly disturbed deposits and do not constitute evidence of a prehistoric occupation of the project property. This is reinforced by the near absence of marine shell that is typical at prehistoric coastal sites. Based on the data from the extended testing program, the Spindrift site did not extend into the project boundaries. Therefore, no significant impacts to archaeological resources have occurred with the previous construction and no mitigation is required.

Visual Quality/Aesthetics- The project site is located in an identified scenic overlook in the La Jolla Community Plan, which is described as a scenic view over private properties from a public right-of-way. Additionally, the community plan sites this lot within a major viewshed, an unobstructed panoramic view from a public vantage point. The proposed addition and remodel to the existing residence as well as the trellis, retaining and site walls would not create any obstruction of these identified viewsheds as the residence is situated much lower than the level of the right-of-way from where the view is observed. The existing view from these identified public viewing locations toward the ocean would not result in any substantial changes. Therefore, no significant visual impacts would occur and no mitigation is required.

Geology/Soils- The project site is located in a seismically active region of California, and located within geologic hazard category 43 as shown on the San Diego Seismic Safety maps. Zone 43 encompasses generally unstable coastal bluffs characterized by locally high erosion rates. The applicant has submitted the following geologic reports: Michael Hart, Engineering Geologist, September 14, 2004, and updated reports dated January 2, 2008 and April 30, 2008. The consultant evaluated stability of the coastal bluff and bluff recession rates. The Geology Section has reviewed these reports and based on that review the geotechnical consultant has adequately addressed the soil and geologic condition potentially affecting the development. No geologic impacts are indicated and no mitigation is required.

#### **Community Group Recommendation:**

On September 4, 2008, the La Jolla Community Planning Association voted 11-0-2 to recommend approval of the proposed project with conditions to exclude the proposed jacuzzi and the trellis on the seaward side which does not conform to the environmental sensitive lands guidelines and forward the recommendation to the City.

Staff Response: The proposed new jacuzzi and new trellis at the main second floor deck, located on the western portion of the property, would be located 5 feet from the established coastal bluff edge. Both structures would be located on top of existing retaining walls and columns that support the existing deck structure. The proposed structures are not adding additional load-bearing support structures that would result in geologic impacts to the sensitive coastal bluff; therefore, the proposed jacuzzi and trellis



meets the intent of the regulations for the sensitive coastal bluffs guidelines and provides the required 5 feet setback from the established coastal bluff edge.

### **Community Interest and Letters:**

The proposed project has generated community interest and opposition in the form of petitions, letters, and public records request (Attachment 24). In accordance with Section 112.0302(b), all persons who provided an address and/or legible signatures on the petition sent emails and/or letters where sent a Notice of Public Hearing.

### **Conclusion:**

The previously constructed improvements, modifications, and additions to the existing single-family residence are located within the existing foot print of the residence and are consistent with the development regulations. The proposed new jacuzzi and new trellis at the main second floor deck, would be located 5 feet from the established coastal bluff edge. Both structures would be located on top of existing retaining walls and columns that support the existing deck structure. The proposed structures are not adding additional load-bearing support structures that would impact geologic conditions of the sensitive coastal bluff; therefore, the proposed jacuzzi and trellis meets the intent of the regulations for the sensitive coastal bluffs guidelines and provides the required 5 feet setback from the established coastal bluff edge.

The addition to the existing detached accessory building is consistent with the development regulations on size, location, and setbacks; however, DSD shall not support the existing accessory building to be converted into a guest quarters. The approval of the NUP would grant habitable living space/use within the public right-of-way, which creates a life and safety issue for those living and sleeping in the structure, a liability for the City, and does not benefit a public purpose. DSD believes the finding that the proposed development will not be detrimental to the public health, safety, and welfare can not be substantiated. If the Planning Commission can not substantiate the findings for the NUP, then DSD would not oppose the granting of the SDP, which includes the other improvements within the public right-of-way.

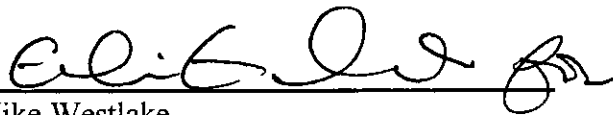
### **ALTERNATIVES**

1. **CERTIFY** Negative Declaration No. 138513, and **APPROVE** Site Development Permit No. 482270 **with modifications**, and **DENY** Neighborhood Use Permit No. 581890 **if the findings required to approve the Neighborhood Use Permit cannot be affirmed.** [A Draft Site Development Permit has been prepared (Attachment 22).]
2. **CERTIFY** Negative Declaration No. 138513, and **APPROVE** Site Development Permit No. 482270 and Neighborhood Use Permit No. 581890, **with modifications**

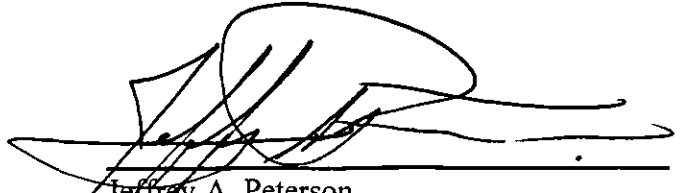


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Respectfully submitted,



Mike Westlake  
Program Manager  
Development Services Department



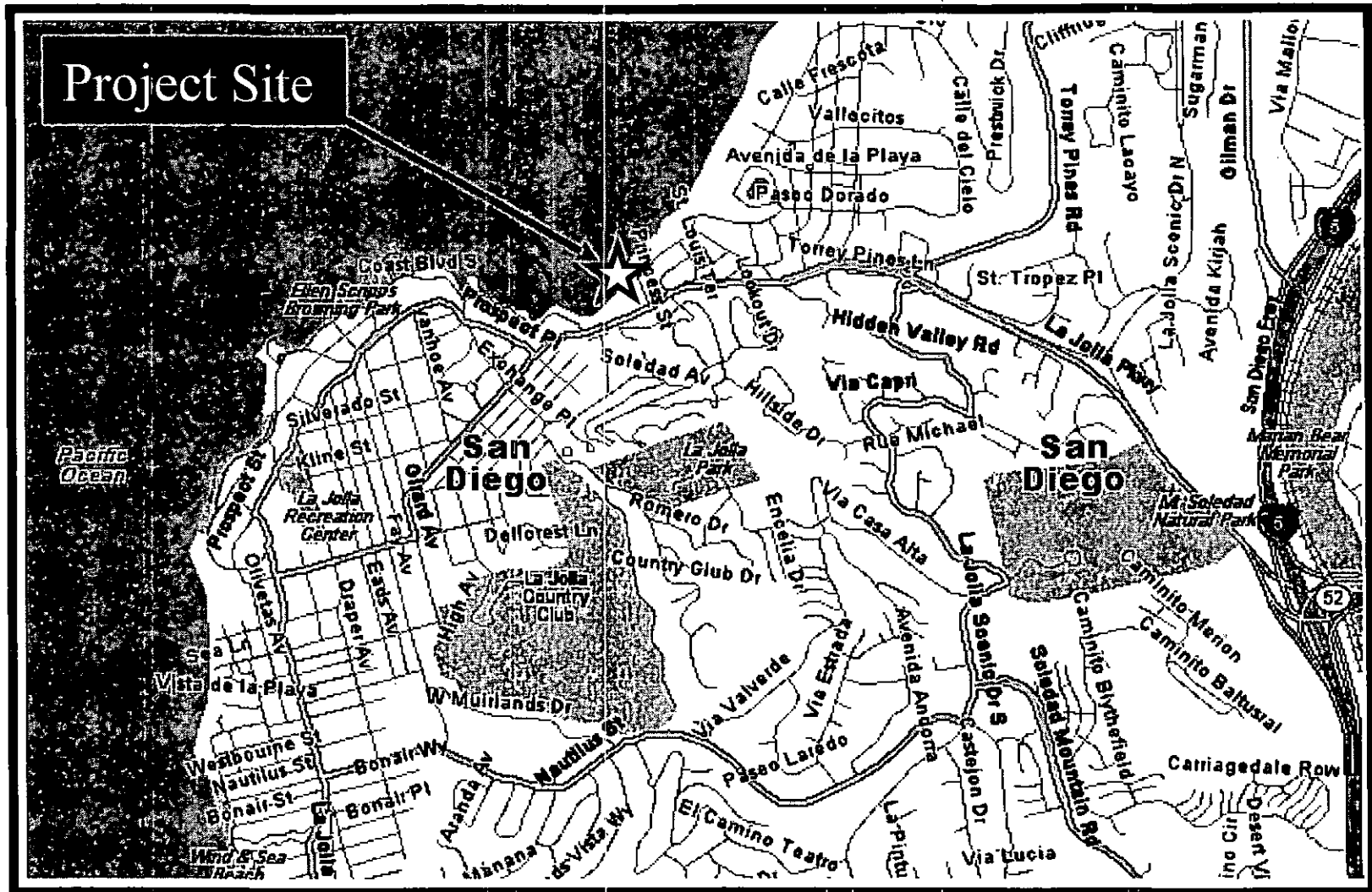
Jeffrey A. Peterson  
Development Project Manager  
Development Services Department

WESTLAKE/JAP

Attachments:

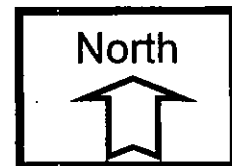
1. Project Location Map
2. Aerial Photograph
3. Zoning Map
4. Community Plan Land Use Map
5. Project Data Sheet
6. Permit History
7. San Diego Coastal Regional Commission Permit No. F6760, June 2, 1978
8. State Coastal Commission Appeal No. 221-78, June 15, 1978
9. San Diego Coastal Regional Commission Permit No. A-133-79, September 20, 1979
10. San Diego Coastal Regional Commission Permit No. F60760-A, March 26, 1980
11. Site Development Permit No. 8967, dated January 26, 2005
12. Pending Amendment to Permit No. A-133-79-A2/F60760-A3
13. Project Plans (Reduced)
14. Notice of Violation of the California Coastal Act, Violation File No. V-6-01-106
15. Letter of Intent regarding the NOV, January 4, 2002
16. Stipulated Judgment, April 14, 2004
17. Civil Penalty Notice & Order, November 14, 2007
18. Notice of Civil Penalty Hearing, December 6, 2007
19. Civil Penalty Administrative Enforcement Order, December 26, 2007
20. LJCP Subarea D- Visual Access
21. Draft Site Development Permit and Neighborhood Use Permit Resolution/Findings
22. Draft Site Development Permit with Conditions
23. Community Planning Group Recommendation
24. Community Letters and Petitions
25. Ownership Disclosure Statement
26. Project Chronology



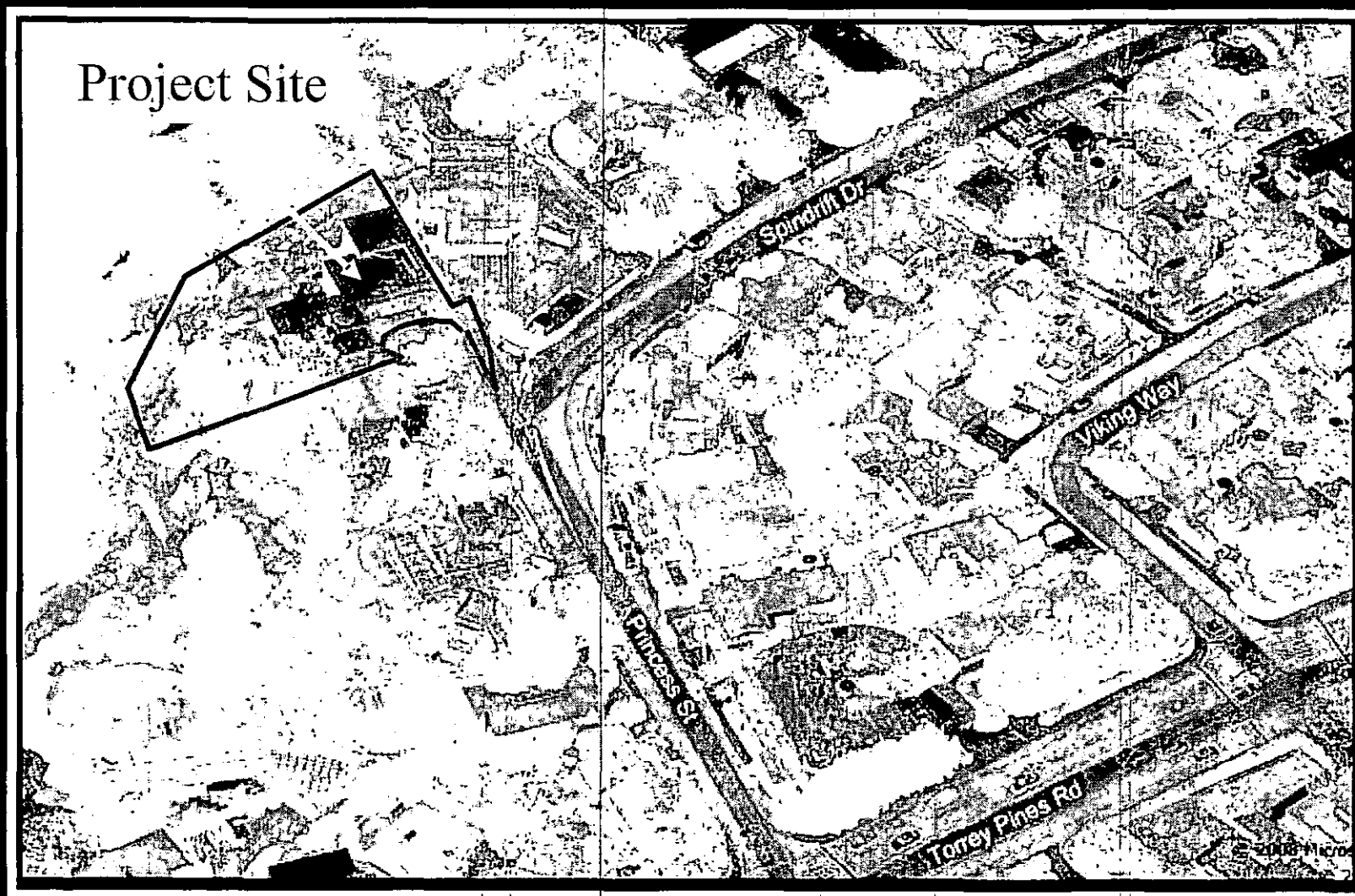


## Location Map

**Kretowicz Residence - Project No. 138513**  
 7957 Princess Street





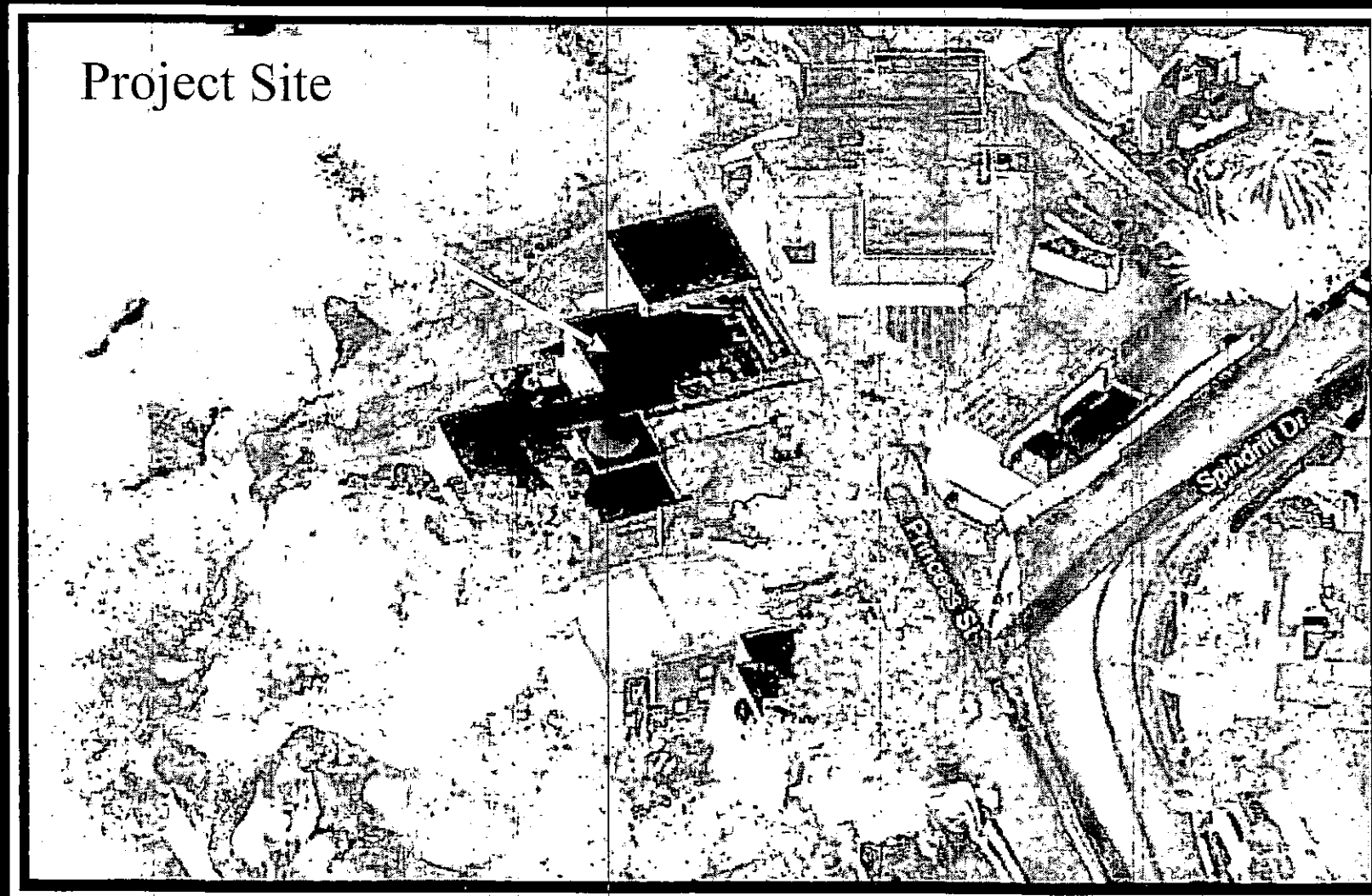


# **Aerial Photo**

**Kretowicz Residence - Project No. 138513**  
**7957 Princess Street**







## Aerial Photo -Looking East (Enlarged)

Kretowicz Residence - Project No. 138513  
7957 Princess Street







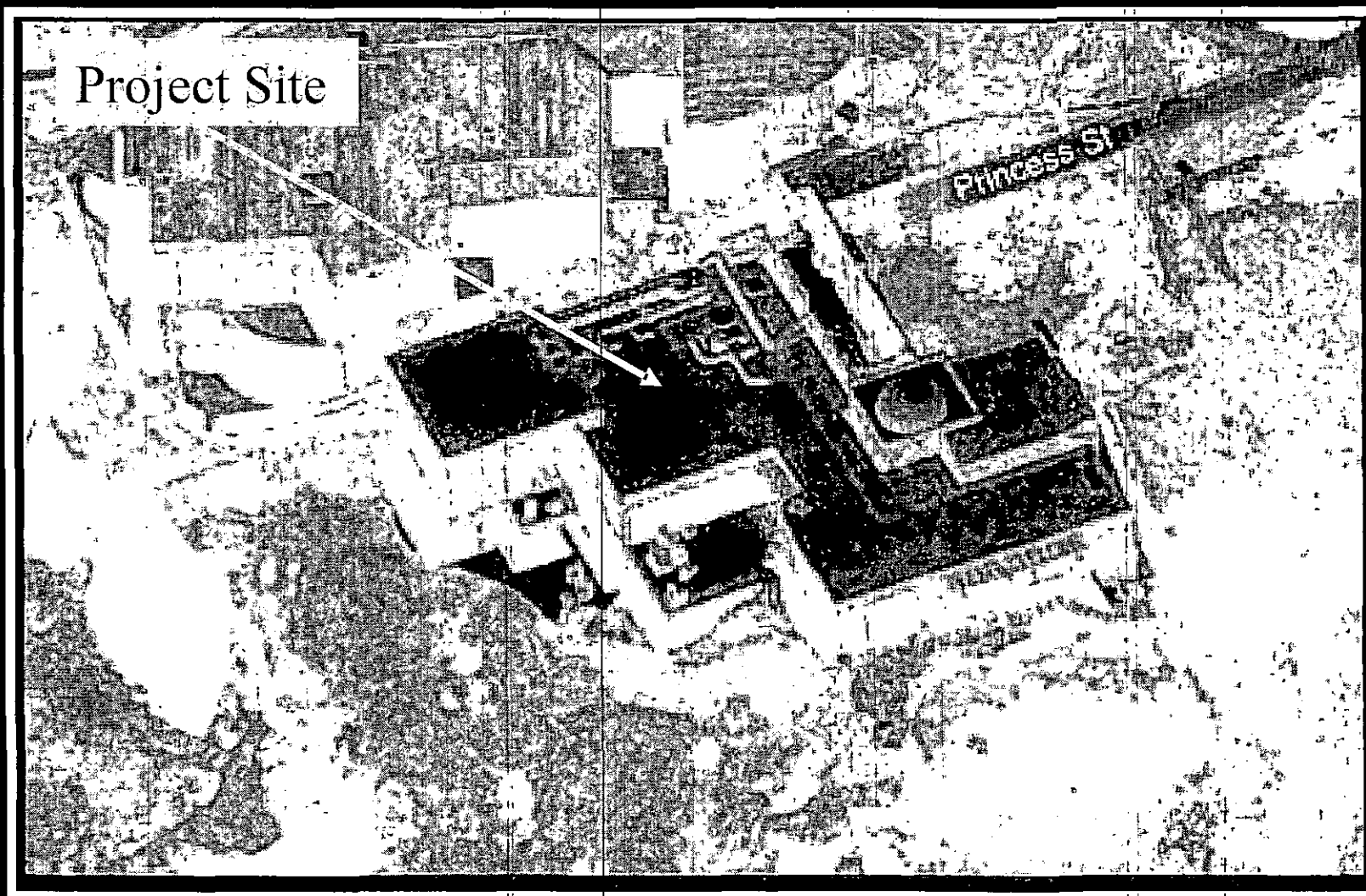
## Aerial Photo -Looking West (Enlarged)

Kretowicz Residence - Project No. 138513  
7957 Princess Street





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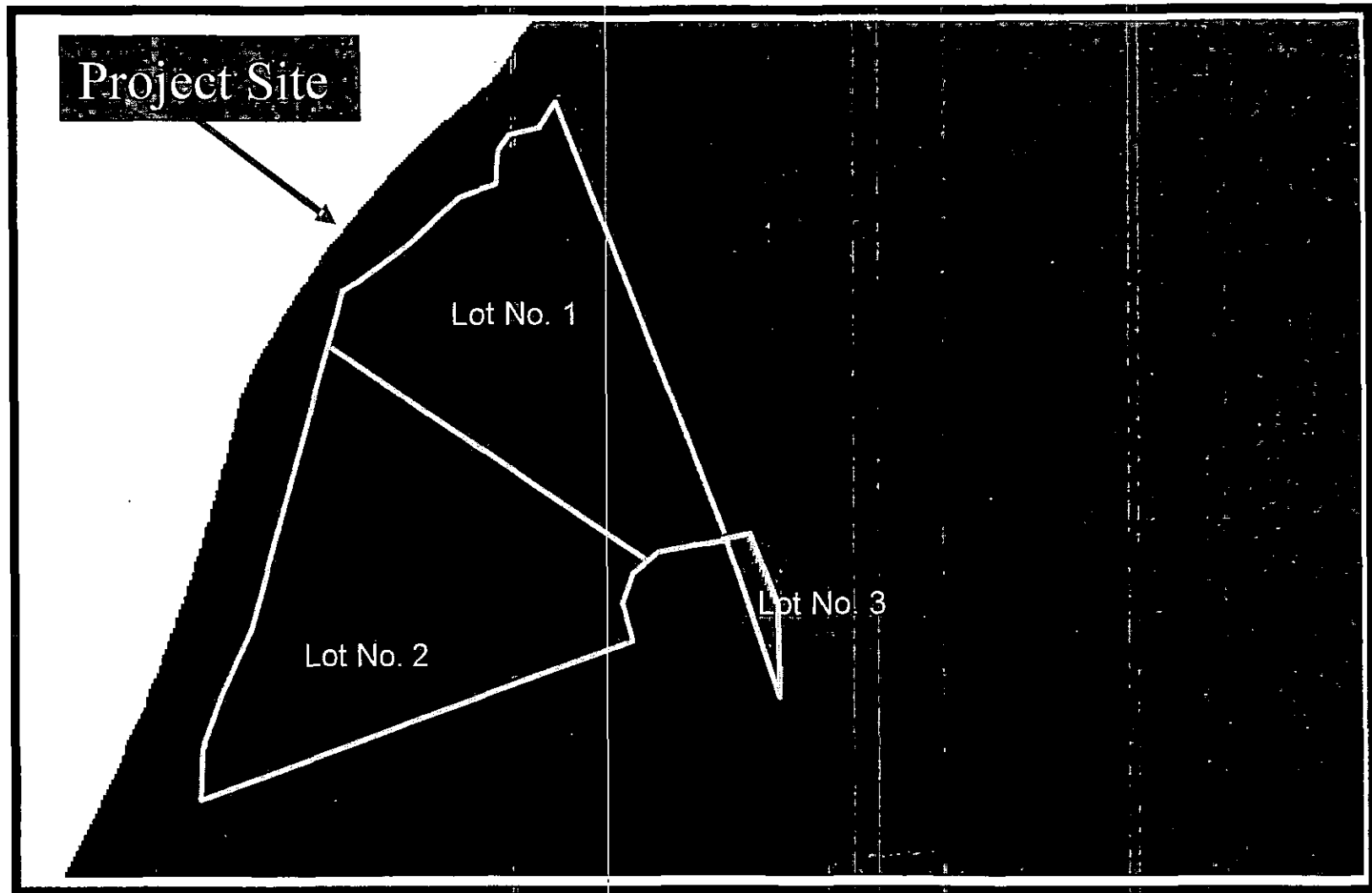
## Aerial Photo -Looking West (Enlarged)

Kretowicz Residence - Project No. 138513  
7957 Princess Street



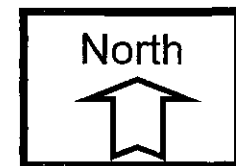
ATTACHMENT 2



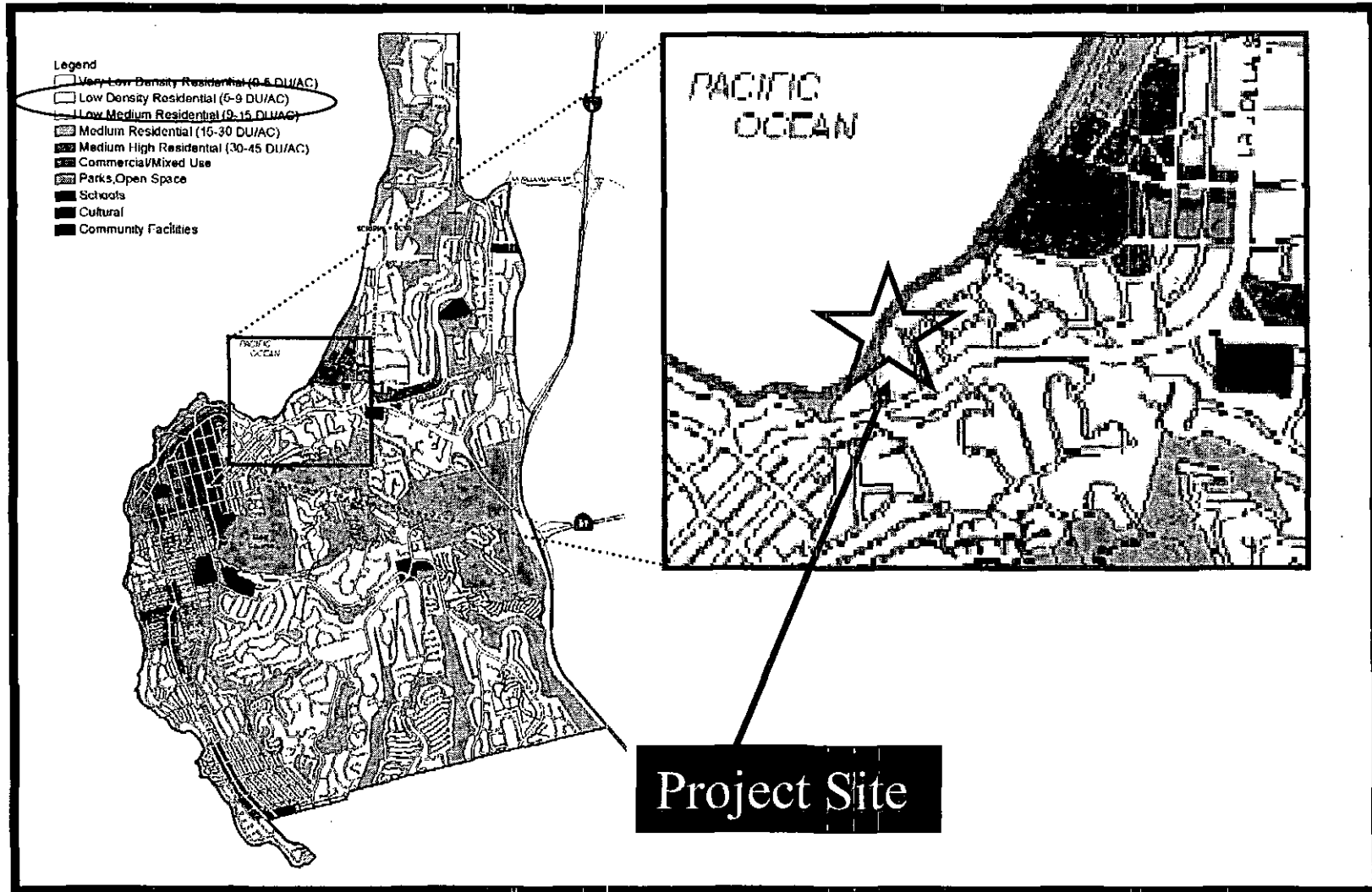


## Zoning Map (Three Lots)

Kretowicz Residence - Project No. 138513  
7957 Princess Street

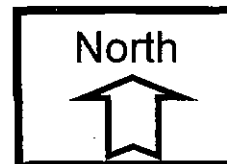






# La Jolla Community Plan Land Use Map

Kretowicz Residence - Project No. 138513  
7957 Princess Street





## PROJECT DATA SHEET

<b>PROJECT NAME:</b>	Kretowicz Residence - Project No. 138513	
<b>PROJECT DESCRIPTION:</b>	The proposed project includes the improvements, modifications, and additions to the existing single-family residence, the project site, and the accessory structures that have been previously constructed, which includes a proposed guest quarters, a new trellis, and jacuzzi.	
<b>COMMUNITY PLAN AREA:</b>	La Jolla	
<b>DISCRETIONARY ACTIONS:</b>	Site Development Permit and Neighborhood Use Permit	
<b>COMMUNITY PLAN LAND USE DESIGNATION:</b>	Single Family Use (5-9 dwelling units per acre)	
<b><u>ZONING INFORMATION:</u></b> <b>ZONE:</b> RS-1-7 Zone and SF Zone of the LJSPD <b>HEIGHT LIMIT:</b> 30 feet <b>LOT SIZE:</b> Minimum 5,000 square feet <b>FLOOR AREA RATIO:</b> 45 percent (RS-1-7) <b>LOT COVERAGE:</b> 50 percent (RS-1-7) and 60 percent (SF) <b>FRONT SETBACK:</b> 6 feet (LDC Section 131.0443(a)(2)) <b>SIDE SETBACK:</b> 6 feet (North) and 2 feet 2 inches (South) <b>STREETSIDE SETBACK:</b> NA <b>REAR SETBACK:</b> 25 feet <b>PARKING:</b> 2		
<b><u>ADJACENT PROPERTIES:</u></b>	<b>LAND USE DESIGNATION &amp; ZONE</b>	<b>EXISTING LAND USE</b>
<b>NORTH:</b>	Single Family Use; SF Zone of the LJSPD	Single -Family Residence
<b>SOUTH:</b>	Single Family Use; RS-1-7 Zone	Single -Family Residence
<b>EAST:</b>	Single Family Use; RS-1-7 Zone and SF Zone of the LJSPD	Single -Family Residence and Public Right-of-Way (Street)
<b>WEST:</b>	Pacific Ocean	Pacific Ocean
<b>DEVIATIONS OR VARIANCES REQUESTED:</b>	None	
<b>COMMUNITY PLANNING GROUP RECOMMENDATION:</b>	On September 4, 2008, the La Jolla Community Planning Association voted 11-0-2 to recommend approval of the proposed project with conditions.	



## **PERMIT HISTORY**

Permit History (Prior Owner): The original two-story Hopi house was constructed prior to 1915 and was approximately 1,456 square feet (Attachment 13-Plans, Sheet A-1.0(b)). In 1959 Building Permit No. B14412 was issued for the enclosure of an existing front porch, approximately 216 square feet (Attachment 13-Plans, Sheet A-1.0(c)). A new porch addition at the rear of the structure, approximately 182 square feet, and a new second floor addition, approximately 455 square feet, was approved on January 7, 1969, pursuant to Building Permit No. E38684 (Attachment 13-Plans, Sheet A-1.0(c)). A new detached accessory building labeled as "Photo Lab" located at the front property, approximately 209 square feet, was approved on January 28, 1969, pursuant to Building Permit No. E40921 (Attachment 13-Plans, Sheet A-1.0(e)).

On June 2, 1978, the California Coastal Commission, San Diego Coastal Regional Commission, (hereafter "Commission") approved a 3,066 square foot addition to the existing single family residence pursuant to Permit No. F6760 (Attachment 7). This permit was appealed to the State Coastal Commission by concerned citizens pursuant to Appeal No. 221-78 (Attachment 8). On July 18, 1978, the State Coastal Commission upheld the Commission's approval of the permit. On August 14, 1978, a building permit was issued for the construction pursuant to Building Permit No. M19031. In reliance upon this permit, the applicant commenced development.

On September 15, 1978, one of the concerned citizens (Anthony C. Ciani) filed a lawsuit against the Commission and State Coastal Commission for having failed to make a public access and recreation finding on the project as required by the Coastal Act. On February 27, 1979, A Finding of Fact and Conclusion of Law was issued by the Superior Court of the State of California regarding the public access and recreation finding. The court ruled that such a finding must be made and the matter was remanded to the Commission to make specific findings on the public access and recreation. It was made clear by the court that no other aspects of the approved project were to be reconsidered. After several hearings and much testimony, the Commission adopted findings which found the site inappropriate for vertical access and required no such access due to safety factors and lack of street parking among others. This decision was appealed to the State Coastal Commission, which on September 20, 1979, found that public access should be required and issued Permit No. A-133-79 (Attachment 9). This permit included a condition that required the applicant to record both a lateral (from the toe of the bluff to the mean high tide line) and vertical (five feet wide extending from the street down to the bluff along the southern property line) public access easements. A recent search of the records revealed that the easements were never offered and or recorded.

A condition of Permit No. F6760 required the applicant to submit a drainage plan to control runoff and that the plan be reviewed and determined adequate in writing by the staff engineer for the State Coastal Commission. On March 26, 1980, the applicant submitted an application to the Commission for an amendment to the original permit (F6760-A) to legitimize the drainage and runoff control measures which were implemented prior to the Commission approval (Attachment 10). The Commission approved the amendment on April 4, 1980.



002422

Coastal Permit Jurisdiction: The Local Coastal Program (LCP) was adopted by the City Council and certified by the State Coastal Commission. The City of San Diego obtained responsibility for issuing Coastal Development Permits from the State Coastal Commission in this area of the city on October 17, 1988.

Permit History (Kretowicz): The applicant (Ure and Diane Kretowicz) purchased the subject property in March 1993. The existing master bedroom area was remodeled into a new kitchen, pursuant to Building Permit No. C302021-98 approved on April 15, 1998 (Attachment 13-Plans, Sheet A-1.0(g)). On February 17, 2001, the Planning Commission approved Sensitive Coastal Resource/Coastal Development Permit No. 96-7148 for the removal of the previously constructed bluff improvements and approved the construction of a pool and spa, deck, retaining walls, area drains, landscaping, and provide an emergency access easement. This development application was originally submitted in the early 1997 in response to a code enforcement complaint filed earlier for constructing improper landscape and hardscape improvements onto the coastal bluff. The Planning Commission's approval required the removal of all bluff improvements in violation (including wood timber stairs, retaining walls, and palm trees). The non-drought tolerant plant material on the bluff was permitted to remain without irrigation, so that the removal of the landscape would not further impact the bluff. On March 2, 2001, the Planning Commission's approval was appealed to the City Council. On June 5, 2001, the City Council denied the appeal and approved Permit No. 96-7148 with one additional condition that a gate is to be installed and, if for any reason the lateral access is not dedicated, that it is made sure it is a conditional of the project approval.

The City Council's decision was appealed to the Commission on the basis of being inconsistent with the LCP and the conditions of the of the Commission's Permit. (Appeal No. A-6-LJS-01-95). On August 6, 2001, the Commission found that a Substantial Issue existed with respect to the grounds on which the appeal was filed. The de novo review of the City's permit application was subsequently scheduled for October 2001; however, this hearing was postponed by the applicant. On May 14, 2002, the project was withdrawn by the applicant, which resulted in no permit for the development by the City or the Coastal Commission. On December 21, 2001, the Commission issued a Notice of Violation (NOV) of the California Coastal Act, Violation File No. V-6-01-106 (Attachment 14). The applicant's attorney submitted a letter of intent regarding the NOV on January 4, 2002 (Attachment 15).

On April 2, 2002, the applicant was issued Engineering Permit No. W50238 for private enhanced concrete pavement within the public right-of-way at the terminus of Princess Street. On February 28, 2006, the applicant was approved for a construction change to the engineering permit to install exposed aggregate pavement and this work has been completed.

On May 1, 2002, the City's Neighborhood Code Compliance Department (NCCD) was contacted for construction on the project site without permits. NCCD conducted an inspection and found un-permitted excavation being done in the garage. The City of San Diego filed a lawsuit against the applicant and on April 14, 2004, and a "Stipulated Judgment" was entered into with the applicant and the City of San Diego (Attachment 16), which required the concurrent processing to amend Coastal Development Permit No.



A-133-79/F6760 (both permit numbers combined as one) with the Commission and process a Site Development Permit (SDP) with the City to resolve the outstanding issues.

On April 23, 2004, the applicant submitted an application with the City for a SDP to allow for the previous garage modifications, retaining walls, rear yard improvements, and an easement for emergency lifeguard access. The SDP No. 8967 was approved on January 26, 2005 (Attachment 11). On February 11, 2005, the applicant submitted an application with the Commission to amend the Coastal Development Permit (Application No. A-133-79-A1/F6760-A2). In June 2005, the Commission reviewed the amendment to 1) replace the requirement that the property owner offer to dedicate (OTD) a vertical public access easement with a) an easement for emergency lifeguard access and b) contribute \$10,000.00 for public access improvements in the La Jolla area; 2) remove unpermitted improvements including, but not limited to, wooden timber stairs, retaining walls and palm trees on the face of the coastal bluff; 3) modify an existing retaining wall located in the yard (bluff top) of the site; and 4) install patio, barbecue, landscaping and modifications to the existing garage, including a car lift and storage. The Commission denied the applicant's request to revise the OTD requirements, but approved the other proposed improvements, except those located within the alignment of the access easement or those that could interfere with use of the access in the future. The applicant subsequently filed a lawsuit against the Commission regarding their decision (Case No. GIC 851915). In early 2007, a "Stipulated Judgment" was entered into with the applicant and the Commission, which allowed a new application to be submitted with the Commission to amend the Coastal Development Permit Application No. A-133-79-A2/F6760-A3 (Attachment 12). This application was submitted on April 3, 2007, and withdrawn by the applicant on July 3, 2008. The applicant will submit a new coastal development permit application to the Commission once all of the City's actions have been completed.

Civil Penalty Hearing: On May 6, 2005, the City's NCCD was contacted for construction on the project site without permits. NCCD conducted several inspections (September 12, 2005; August 14, 2006; August 24, 2006; March 19, 2007; August 7, 2007; November 8, 2007; and November 9, 2007) and was observed to be in violation, but not limited to unpermitted block walls, retaining walls, additions to the lower level (access to the interior space was denied), new deck on the second floor, upper level addition and modifications to the interior, addition and modification to the accessory structure in the front of the property, construction of masonry walls in the public right-of-way and the view corridor, garage modifications, and landscaping and irrigation on the coastal bluff in violation of the SDP No. 8967 that was approved on January 26, 2005 (Attachment 11). After several requests to Stop Work, the NCCD issued a Civil Penalty Notice & Order (CPNO), dated November 14, 2007 (Attachment 17). On December 6, 2007, NCCD issued a Notice of Civil Penalty Hearing which was scheduled for December 18, 2007 (Attachment 18). After the public hearing, a Civil Penalty Administrative Enforcement Order was issued by the Administrative Hearing Officer on December 26, 2007 (Attachment 19). This order required the immediate cessation of all work at the property, payment of civil penalty and costs, and all violations noted in the CPNO to be added to the plans and included in Project No. 138513. This order included requirements for submitting for the ministerial permits, construction, and final inspections.



002425

STATE OF CALIFORNIA-CALIFORNIA COASTAL COMMISSION

MUND G. BROWN, JR., Governor

## SAN DIEGO COAST REGIONAL COMMISSION

6154 MISSION GORGE ROAD, SUITE 220  
SAN DIEGO, CALIFORNIA 92120-TEL. (714) 280-6992Tim Cohelan  
ChairmanRoger Hedgecock  
Vice ChairmanJEFFERY D. FRAUTSCH  
Representative to the  
California Coastal CommissionBruce H. Warren  
Executive Director

RECEIVED AUG 17 1978

DEVELOPMENT PERMIT

DATE OF COMMISSION ACTION: June 2, 1978

CONTROL NO.: F6760

APPLICANT: Jane B. Baker  
7957 Princess Street  
La Jolla, Ca. 92037AGENT: B. G. Hildyard  
2255 Avenida de La Playa  
La Jolla, Ca. 92037

PROJECT LOCATION: 7957 Princess St., La Jolla (APN 350-151-01-02).

You are hereby granted a coastal development permit. This permit is issued after a duly held public hearing before the San Diego Coast Regional Commission and after the Regional Commission found that the proposed development is in conformity with the provisions of the California Coastal Act of 1976 including the following:

1. That the development is in conformity with Chapter 3 of the California Coastal Act of 1976 (commencing with Public Resources Code, Section 30200).
2. That the permitted development will not prejudice the ability of any affected local government to prepare a local coastal program that is in conformity with Chapter 3 of the California Coastal Act of 1976.
3. That if the development is located between the nearest public road and the sea or shoreline of any body of water located within the coastal zone, that the development is in conformity with the public access and public recreation policies of Chapter 3 of the California Coastal Act of 1976 (Public Resources Code, Sections 30210 - 30224).
4. That there are no feasible alternatives or feasible mitigation measures, as provided in the California Environmental Quality Act, available which would substantially lessen any significant adverse impact that the development as finally proposed may have on the environment.

This permit is limited to development described below and set forth in material on file with the Regional Commission and subject to the terms, conditions, and provisions hereinafter stated:

- A. DEVELOPMENT: Construction of 3,066 sq. ft., first floor addition to existing 1,350 sq. ft., 2-story single-family residence. Addition will include living room, dining room, bedroom, deck, and attached 2-car garage. Access is from Princess Street.

Lot area	26,000 sq. ft.
Building coverage	5,345 sq. ft. (21%)
Paved-area coverage (includes Decks)	1,607 sq. ft. (6%)
Unimproved area	19,048 sq. ft. (73%)
Parking spaces	2
Zoning	R-1-5
General plan	Low Den. Res. (8-14 du/ac)
Project Density	1.68 du/ac.
Height above average finished grade	16 ft. above
centerline of frontage road	7 ft.

F6760

Exhibit - "E"

ATTACHMENT

Rev. 8/77)



Development Permit; F 6760

Page 2 of 3

B. TERMS AND CONDITIONS:

1. That the applicant agrees to adhere strictly to the current plans for the project as approved by the Regional Commission.
2. That the applicant agrees to notify the Regional Commission (or State Commission if there is no Regional Commission) of any changes in the project.
3. That the applicant will meet all the local code requirements and ordinances and obtain all necessary permits from State and Federal Agencies.
4. That the applicant agrees to conform to the permit rules and regulations of the California Coastal Commission.
5. That the applicant agrees that the Commission staff may make site inspections of the project during construction and upon completion.

SPECIAL CONDITIONS

1. That the applicant agrees to comply with all of the recommendations contained in the geology report prepared for the residence by Geocon, Incorporated, 9-76 (See Exhibit 1).
2. That the applicant agrees to cantilever a 15' x 15' (minimum) section of the southwest corner of the proposed addition (See Site Plan) to retain the existing vegetation and to ensure the integrity of the slope. In addition all of the front decks shall be cantilevered to afford maximum protection of the seaward bluff slopes. A revised elevation plan showing the required cantilevered areas shall be submitted to, reviewed, and determined adequate prior to the issuance of the permit.
3. That prior to issuance of the permit, the applicant shall submit a drainage plan to control runoff to be reviewed and determined adequate in writing by the staff engineer for the State Coastal Commission.

Terms and conditions are to run with the land. These terms and conditions shall be perpetual, and it is the intention of the parties to bind all future owners and possessors of the subject property to said terms and conditions.



ent Permit; F 6760

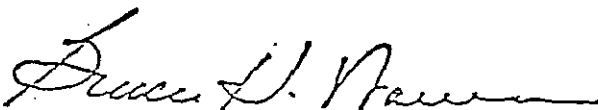
of 3

STANDARD PROVISIONS:

1. STRICT COMPLIANCE: Permittee is under obligation to conform strictly to permit under penalties established by California Coastal Act of 1976.
2. TIMELY DEVELOPMENT AND COMPLETION: Permittee shall commence development within one year following final approval of the project by the San Diego Coast Regional Commission. Construction shall be pursued in a diligent manner and completed within a reasonable period of time.
3. REQUEST FOR EXTENSIONS: Permittee may request an extension of time for the commencement of construction provided the request is applied for prior to expiration of the permit.
4. ASSIGNABILITY OF PERMIT: This permit is not assignable unless the permittee's obligations under the permit are assumed by assignee in writing within one year and a copy of the required assumption agreement delivered to the Regional Commission or State Commission if there is no Regional Commission.
5. APPEAL - Unless appealed to the State Commission within ten (10) working days following final action by the San Diego Coast Regional Commission, all terms and conditions shall be final.
6. DISCLAIMER: The permit is in no way intended to affect the rights and obligations heretofore existing under private agreements nor to affect the existing regulations of other public bodies.
7. PERMITTEE TO RETURN COPY: This permit shall not be valid unless within ten (10) working days permittee returns a signed copy acknowledging contents to San Diego Coast Regional Commission.

If you have any questions on this permit, please contact the staff of the Regional Commission.

Very truly yours,



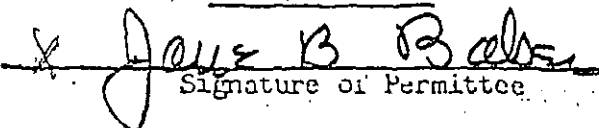
Bruce H. Warren  
Executive Director

\*\*\*\*\*

Directions to Permittee: Permittee is to execute below and return one copy of this permit to the San Diego Coast Regional Commission.

I have read and understand the terms, conditions, limitations, and provisions of this permit and agree to abide by them.

Control No.: F6760

  
Signature of Permittee

8/15/78

Date



U.S.I. - 7/18/78  
 COMMISSION MTC.

**CALIFORNIA COASTAL COMMISSION**  
 631 Howard Street, San Francisco 94105 — (415) 543-8555

APPEAL SUMMARY

RECEIVED JUL 14 1978

Appeal No. 221-78  
 (Baker)  
 21st Day: 7/7/78  
 42nd Day: 7/28/78

DECISION OF  
 REGIONAL  
 COMMISSION:

Permit granted with conditions by San Diego Coast Regional Commission

PERMIT  
 APPLICANT:

Jane Baker

DEVELOPMENT  
 LOCATION:

One-half mile east of La Jolla Cove, at 7957 Princess Street, La Jolla, City of San Diego (Exhibits 1, 2)

DEVELOPMENT  
 DESCRIPTION:

Single-story addition to existing two-story single-family residence (Exhibits 3, 4)

APPELLANTS:

Helen Reynolds, Sim Bruce Richards, Anthony Giani, and Save Our Heritage Organization

APPELLANTS CONTEND THAT:

The following grounds of appeal warrant rehearing of the application by the State Commission:

1. The development presents a statewide planning issue on which guidance of the State Commission is required and the matter is of statewide significance.
2. The decision of the Regional Commission adversely affects coastal resources or the proper public use of resources, contrary to specific provisions of the Coastal Act of 1976.
3. The decision of the Regional Commission is inconsistent with previous decisions of the State Commission or did not adequately address issues covered by the Interpretive Guidelines adopted by the State Commission.
4. The proceedings of the Regional Commission were materially affected in inaccurate factual information or procedural error and, therefore, resulted in a decision contrary to the policies of the Coastal Act of 1976.
5. The decision of the Regional Commission should be changed because of new factual information, relating to coastal issues, and this information could not reasonably have been presented to the Regional Commission.

In support of these grounds of appeal, the appellants contend that:

1. "The proposed addition is located in a highly scenic area requiring protection as described by the California Coastal Act of 1976" and recognized by the Commission in Appeal No. 130-76 (Fee Investment Company). The project would establish a precedent



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-2-

for similar projects which, "when taken together, would destroy one of La Jolla's most valued assets and one of California's long-treasured scenic settings."

2. The proposed addition would disturb the nesting of marine birds in the adjacent San Diego-La Jolla Underwater Park and Ecological Reserve.

3. "The project site is in an area known to include archaeological artifacts. . . and the project could result in the loss of potential archaeological discoveries."

4. The project site is used by the public for access to the beach below. "The proposed project would result in the direct loss of public access to the Park Beach from intermediate location between La Jolla Shores and Devil's Slide."

5. The historical and architectural significance of the subject house and an adjacent house owned by one of the appellants would be diminished by the proposed addition. The architecture of both houses contributes to the unique character of La Jolla.

6. "There is some controversy regarding the geological stability of the site. The proposed addition would contribute to the erosion of the bluff. . . sea caves extending into the property could be expected to collapse within the lifespan of the proposed structure."

#### SUBSTANTIVE FILE DOCUMENTS:

1. Notice of Appeal
2. Regional Commission File
3. Appeal No. 130-78 (Fee Investment Company)

#### STAFF NOTES:

1. Project Description. The applicant proposes to construct a one-story, 3,566-sq. ft. addition to an existing 1,250-sq. ft. single-family house. The existing dwelling is two stories in height but is situated primarily below street level. The proposed addition, two ft. higher than the existing structure with the exception of a rotunda projecting six ft. above the new roofline, would be 7½ ft. above the centerline of the frontage road. The proposed project would be set back 35 ft. from the irregularly-shaped bluff and 2½ ft. from the frontage road. No exterior grading would be required.

The proposed addition would be constructed on a parcel consisting of the lot on which the existing structure is situated and an adjacent undeveloped lot (Exhibit 2). The project site is a blufftop parcel located on a promontory overlooking the San Diego-La Jolla Underwater Park and Ecological Reserve, about ½ mile east of La Jolla Cove. The site is located at the end of Princess Street, a residential cul-de-sac (Exhibit 2).

2. Regional Commission Decision. The Regional Commission approved the permit with conditions, requiring that the applicant comply with the recommendations contained in a report prepared by a consulting geologist, cantilever all front decks and the southwest corner of the addition, and prepare drainage plan to control runoff, subject to the approval of the State Commission staff. The Regional Commission previously denied the applicant a permit for a similar proposal which was substantially larger in scale and projected further seaward than the present application.



-3-

3. View Protection. The project site is located on a promontory which is visible from both La Jolla Cove and Coast Walk, a public right-of-way winding along the cliffs. The appellants contend that the proposed development would impair coastal views from these two heavily-travelled sight-seeing areas and from Princess Street.

a. Coast Walk. The appellants contend that in Appeal No. 130-76 (Fee Investment Company), the Commission recognized the view from Coast Walk as a scenic resource deserving protection under the Coastal Act. The Commission found no substantial issue in that appeal from the Regional Commission decision approving an amendment with a condition requiring the applicants to relocate a building foundation, which encroached almost four ft. onto Coast Walk.

b. Princess Street. The applicant stated that in order to set the addition back from the bluff, she obtained a variance from the County to locate it only  $2\frac{1}{2}$  ft. from Princess Street. The appellants contend that due to the uneven slopes of the property, the addition would have a height of  $10\frac{1}{2}$  ft. at the street rather than  $7\frac{1}{2}$  as determined by the Regional Commission staff. The appellants argue that the proximity of the project to the street and its relatively "massive architectural scale" would be inconsistent with the "open" feeling of the surrounding neighborhood.

According to the Regional Commission staff, the proposed project is located in a fully developed area. Although the seaward view could still be obtained looking over the addition from the surrounding, elevated streets, the appellants contend that the undeveloped lot is one of the most aesthetic remaining sites for public views of the coast.

4. Beach Encroachment. The statewide Interpretive Guidelines adopted by the Commission describe the "Stringline Method of Preventing Beach Encroachment" used to determine the existing line of development which new developments should not extend. The Guidelines state:

In a developed area where new construction is generally infilling and is otherwise consistent with Coastal Act policies, no part of a proposed new structure, including decks, shall be built farther onto a beachfront than a line drawn between the most seaward portions of the adjoining structures. Enclosed living space in the new unit should not extend farther seaward than a second line drawn between the most seaward portions of the adjoining structures. Enclosed living space in the new unit should not extend farther seaward than a second line drawn between the most seaward portions of the enclosed living space of the adjoining structure.

The Regional Commission staff stated that in this case, "because the site is located on a promontory, the existing line of development was projected toward the lot from two different directions intersecting at a point on the west side of the lot." The staff reported that the location of the proposed development on a promontory precluded drawing the line between the adjoining structures, since this line would lie well behind even the existing house. The appellants contend that the existing line of development was improperly calculated, and the proposed project would encroach upon the beach.

5. Geologic Stability. The property is located on the edge of an ancient marine terrace dissected by erosion into a series of gullies and ridges. The proposed addition would be situated on a prominent ridge which extends west from the existing residence. The land north of the ridge slopes down to a flat topographic shelf bordered by a low, vertical sea cliff. South of the ridge, drainage from Princess Street has enlarged a gully parallel to the south property line. Wave action has created several



002432

-4-

caves along the face of the cliff, some of which extend more than 80 ft. into the cliff.

According to the applicant's geologist, oversteepening (Excessive vertical landform) has resulted in occasional blockfalls and landslides. In 1976, a large blockfall occurred several hundred ft. south of the site, and a similar fall is likely to occur near the northwest corner of the project.

The applicant's geologist prepared recommendations for measures to mitigate the potential adverse effects of the project. At the request of the Regional Commission, the geologist's report and the project site were reviewed by a State geologist, who concurred with the report (Exhibit 5).

6. Architectural Significance. The house existing on the project site was designed by Frank Mead and Richard Requa, students of the noted architect Irving Gill. Gill designed the house adjacent to the property (see Exhibit 2), which is owned by one of the appellants. The appellants contend that both houses, especially the one designed by Gill, have architectural and historical significance that would be diminished by construction of the addition. The applicant contends that the addition is designed to blend with the architecture of the existing houses.



002433

ATTACHMENT 9

CALIFORNIA COASTAL COMMISSION

631 Howard Street, San Francisco 94105 (415) 543-8555

F6760-

NOTICE OF INTENT TO ISSUE PERMIT

RECEIVED

SEP 28 1979

On September 20, 1979, by a vote of 9 to 0, the California Coastal Commission granted to Jane B. Baker

CALIF. COASTAL COMMISSION  
SAN DIEGO REGION

Permit A- 133-79, subject to the attached conditions, for development consisting of single-story addition to existing two-story, single-family residence

more specifically described in the application file in the Commission offices.

The development is within the coastal zone in San Diego County at one-half mile east of La Jolla Cove at 7757 Princess Street, La Jolla, City of San Diego.

The actual development permit is being held in the Commission office until fulfillment of the Special Conditions 1, imposed by the Commission. Once these conditions have been fulfilled, the permit will be issued. For your understanding, all the imposed conditions are attached.

Issued on behalf of the California Coastal Commission on September 25, 1979.

NO CONSTRUCTION IS AUTHORIZED BY THIS DOCUMENT—THIS IS NOT A PERMIT

MICHAEL L. FISCHER  
Executive Director

By Janet H. Tuck

The undersigned permittee acknowledges receipt of this notice of the California Coastal Commission determination on Permit A- 133-79, and fully understands its contents, including all conditions imposed.

Date

Permittee

Please sign and return one copy of this form to the Commission office at the above address.



Permit A- 133-79, is subject to the following conditions:

A. Standard Conditions.

1. Assignment of Permit. This permit may not be assigned to another person except as provided in the California Administrative Code, Title 14, Section 13170.
2. Notice of Receipt and Acknowledgement. Construction authorized by this permit shall not commence until a copy of this permit, signed by the permittee or authorized agent, acknowledging receipt of the permit and acceptance of its contents, is returned to the Commission.
3. Expiration. If construction has not commenced, this permit will expire two (2) years from the date on which the Commission voted on the application. Application for extension of this permit must be made prior to the expiration date.
4. Construction. All construction must occur in accord with the proposal as set forth in the application for permit, subject to any special conditions set forth below. Any deviations from the approved plans must be reviewed by the Commission pursuant to California Administrative Code, Title 14, Sections 13164-13168.
5. Interpretation. Interpretation or revisions of the terms or conditions of this permit must be reviewed by the State Coastal Commission or its Executive Director. All questions regarding this permit should be addressed to the State Commission office in San Francisco unless a condition expressly authorizes review by the Regional Commission or its staff.

B. Special Conditions.

Public Access. Prior to the issuance of the permit, the applicant shall submit, for the review and approval of the Executive Director, a document irrevocably offering to dedicate to a public agency or private association approved by the Executive Director easements for public access to and along the shoreline in accordance with the provisions of this condition. The approved document shall be irrevocable for a period of 21 years running from the date of recordation. The documents shall be recorded free of all prior liens and encumbrances except for tax liens and shall constitute a covenant running with the land in favor of the People of the State of California binding the applicant, heirs, assigns, and successors in interest to the subject property. The documents shall provide for offers to dedicate easements for:

a. Lateral Access along the shoreline. The easement shall extend across the ocean-frontage of parcel from the toe of the bluff seaward to the mean high tide line; where sea caves exist, the easement shall extend to the inland extent of the cave. The easement shall allow for passive recreational use by the public and shall allow accepting agency to post signs indicating that marine life cannot be removed from the area.

b. Vertical Access extending from Princess Drive to the mean high tide line. The easement shall be 5 ft. in width and shall extend along the southern edge of the property adjacent to the garage and down the bluff along the trail currently existing on the site. The exact location of the easement shall be plotted on a map subject to the review and approval of the Executive Director and shall be attached as an exhibit to the recorded document.



002435

PERMIT NO. 133-79

-3-

The easement shall be available for public pedestrian use from sunrise to sunset and for emergency rescue operational 24 hours per day. The terms of the easement shall allow the accepting agency, with the concurrence of the Coastal Commission or its successor in interest, to construct improvements to the accessway to ease the public's ability to reach the shoreline. The easement shall also allow the accepting agency to post signs informing the public of the existence of the accessway.

Nothing in this condition shall be construed to constitute a waiver of any sort or a determination on any issue of prescriptive rights or public trust lands which may exist on the parcel itself or on the designated easement.



002437



CALIFORNIA-CALIFORNIA COASTAL COMMISSION

EDMUND G. BROWN, JR., Governor

1ST COAST REGIONAL COMMISSION

Tim Conahan

Chairman

HIGH GORGE ROAD, SUITE 720  
REDWOOD CITY, CALIFORNIA 94063-TEL. (415) 280-6932

Roger Hedgecock

Vice Chairman

Harriet Allen

Representative to the  
California Coastal Commission

Tom Crandall

Executive Director

VERIFICATION OF NOTICEControl No: FG760-ADate Public Notice Mailed: March 26, 1980

Verification of consistency between addresses on the envelopes submitted by the applicant or his/her agent and the addresses contained on the mailing list which is a permanent part of this file.

Consistent ✓

Not Consistent \_\_\_\_\_

Other Notes:

Charles Hamm

CD:





002438

STATE OF CALIFORNIA--CALIFORNIA COASTAL COMMISSION

EDMUND G. BROWN, JR., Governor

## SAN DIEGO COAST REGIONAL COMMISSION

6154 MISSION GORGE ROAD, SUITE 220  
SAN DIEGO, CALIFORNIA 92120--TEL: (714) 280-6992Tim Cohelan  
ChairmanRoger Hedgecock  
Vice ChairmanHarriet Allen  
Representative to the  
California Coastal CommissionTom Crandall  
Executive DirectorNOTICE OF REQUEST FOR AMENDMENT TO PREVIOUSLY  
APPROVED DEVELOPMENT PERMIT

DATE: March 26, 1980

CONTROL NO: F6760-A

APPLICANT: Mr. Joseph L. Baker  
7957 Princess St.  
La Jolla, CA 92037AGENT: B.G. Hildyard  
Montgomery Engineering  
2255 Avenida de la Playa  
La Jolla, CA 92037

PROJECT LOCATION: 7957 Princess St., La Jolla (APN 350-151-01,02)

PROJECT DESCRIPTION: Construction of 3,066 sq. ft., first floor addition to existing 1,350 sq. ft., 2-story single-family residence. Addition will include living room, dining room, bedroom, deck, and attached 2-car garage. Access is from Princess Street.

PROPOSED AMENDMENT: To revise the approved drainage plan that was required by special condition #3 of the permit. Revision involves relocation of 10" PVC drain to avoid 10 foot deep trench through visible ridge. Relocated drain to discharge into existing bamboo covered drainage ravine. Also relocation of trench drain in City street from its designed location to a location slightly upgrade. Revised work has already been completed.

ORIGINAL APPROVAL DATE: June 2, 1978

NOTICE IS HEREBY GIVEN that the San Diego Regional Commission will consider a request for an amendment to a previously approved development permit during their following meeting:

Date and Time: April 4, 1980 at 9:00 a.m.

Place: State Bldg. - Room B109  
1350 Front St.  
San Diego, CA 92101

The project file, including plans, is available for public review, at the Regional Commission's office. Any member of the public may appear at the meeting and express their concern.

Very truly yours,

Tom Crandall  
Executive Director

BY: TAC:CD:er

IMPORTANT: All appeals of Regional Commission decisions must be received at the State Commission office not later than ten (10) working days from the date of the Regional Commission's decision. Appeal forms available at the Regional Commission's office.



002439



STATE OF CALIFORNIA—CALIFORNIA COASTAL COMMISSION

EDMUND G. BROWN, JR., Governor

## SAN DIEGO COAST REGIONAL COMMISSION

154 MISSION GORGE ROAD, SUITE 220  
 SAN DIEGO, CALIFORNIA 92120—TEL. (714) 280-6992

TIM COHELAN  
 Chairman

ROGER HEDGECOCK  
 Vice Chairman

Harriet Allen  
 Representative to the  
 California Coastal Commission

Tom Crandall  
 Executive Director

Date: March 26, 1980

Applicant: Mr. Joseph . Baker  
 7957 Princess St.  
 La Jolla, CA 92037

Agent: B.G. Hildyard  
 Montgomery Engineering  
 2255 Avenida de la Playa  
 La Jolla, CA 92037

You are hereby notified that your request for amendment to Development Permit F6760 is scheduled for a public hearing by the San Diego Coast Regional Commission at their meeting on April 4, 1980 commencing at 9:00 a.m. in Room B-109 of the State Building, 1350 Front Street, San Diego, CA 92101.

The Regional Commission must find that the request "Amendment" is consistent with the Coastal Act of 1976.

You should be present and prepared to discuss any areas of concern to the Regional Commission relative to the proposed amendment.

Very truly yours,

Tom Crandall  
 Executive Director

TAC:CD:er

IMPORTANT: All appeals of Regional Commission decisions must be received at the State Commission office not later than ten (10) working days from the date of the Regional Commission's decision. Appeal forms available at the Regional Commission Office.



002441

**RECORDING REQUESTED BY  
CITY OF SAN DIEGO  
DEVELOPMENT SERVICES**

**WHEN RECORDED MAIL TO  
PERMIT INTAKE  
MAIL STATION 501**

THE ORIGINAL OF THIS DOCUMENT  
WAS RECORDED ON APR 29, 2005  
DOCUMENT NUMBER 2005-0359231  
GREGORY J. SMITH, COUNTY RECORDER  
SAN DIEGO COUNTY RECORDER'S OFFICE  
TIME: 9:04 AM

SPACE ABOVE THIS LINE FOR RECORDER'S USE

JOB ORDER NUMBER: 42-2866

**SITE DEVELOPMENT PERMIT NO. 8967  
KRETOWICZ RESIDENCE - PROJECT NO. 38399  
HEARING OFFICER**

This Site Development Permit is granted by the HEARING OFFICER of the City of San Diego to Ure R. Kretowicz and Dianne M. Kretowicz, Co-Trustee of The DUK Trust, Owner/Permittee, pursuant to San Diego Municipal Code [SDMC] 126.0501. The 0.070-acre site is located at 7957 Princess Street, in the RS-1-7 Zone, Coastal Overlay Zone, Coastal Height Limit Overlay Zone, Beach Parking Impact Overlay Zone, of the La Jolla Community Planning Area. The project site is legally described as Lots 10 and 11, Block 3, Amalfi Subdivision, Map No. 959 and a portion of Lot 1285, Pueblo Lands, Miscellaneous Map No. 0036.

Subject to the terms and conditions set forth in this Permit, permission is granted to Owner/Permittee to allow for previous interior garage modifications, retaining walls, rear yard improvements and an easement for emergency lifeguard access on a site developed with an existing residence, described and identified by size, dimension, quantity, type, and location on the approved exhibits, dated January 26, 2005, on file in the Development Services Department.

The project or facility shall include:

- a. The removal of bluff improvements (currently in violation).
- b. To allow construction for interior garage modifications, retaining walls and rear yard improvements on a site developed with an existing single family residence on a 0.070-acre property;
- c. An easement for emergency lifeguard access.
- d. Landscaping (planting, irrigation and landscape related improvements);
- e. Off-street parking facilities;

**ORIGINAL**



002442

- d. Accessory improvements determined by the City Manager to be consistent with the land use and development standards in effect for this site per the adopted community plan, California Environmental Quality Act Guidelines, public and private improvement requirements of the City Engineer, the underlying zone(s), conditions of this Permit, and any other applicable regulations of the SDMC in effect for this site.

### **STANDARD REQUIREMENTS:**

1. Construction, grading or demolition must commence and be pursued in a diligent manner within thirty-six months after the effective date of final approval by the City, following all appeals. Failure to utilize the permit within thirty-six months will automatically void the permit unless an Extension of Time has been granted. Any such Extension of Time must meet all the SDMC requirements and applicable guidelines in effect at the time the extension is considered by the appropriate decision maker.
2. No permit for the construction, occupancy or operation of any facility or improvement described herein shall be granted, nor shall any activity authorized by this Permit be conducted on the premises until:
  - a. The Permittee signs and returns the Permit to the Development Services Department; and
  - b. The Permit is recorded in the Office of the San Diego County Recorder
3. Unless this Permit has been revoked by the City of San Diego the property included by reference within this Permit shall be used only for the purposes and under the terms and conditions set forth in this Permit unless otherwise authorized by the City Manager.
4. This Permit is a covenant running with the subject property and shall be binding upon the Permittee and any successor or successors, and the interests of any successor shall be subject to each and every condition set out in this Permit and all referenced documents.
5. The utilization and continued use of this Permit shall be subject to the regulations of this and any other applicable governmental agency.
6. Issuance of this Permit by the City of San Diego does not authorize the Permittee for this permit to violate any Federal, State or City laws, ordinances, regulations or policies including, but not limited to, the Endangered Species Act of 1973 [ESA] and any amendments thereto (16 U.S.C. § 1531 et seq.).
7. The Owner/Permittee shall secure all necessary building permits. The applicant is informed that to secure these permits, substantial modifications to the building and site improvements to comply with applicable building, fire, mechanical and plumbing codes and State law requiring access for disabled people may be required.
8. Before issuance of any building or grading permits, complete grading and working drawings shall be submitted to the City Manager for approval. Plans shall be in substantial conformity to Exhibit "A," on file in the Development Services Department. No changes,



002443

modifications or alterations shall be made unless appropriate application(s) or amendment(s) to this Permit have been granted.

9. All of the conditions contained in this Permit have been considered and have been determined to be necessary in order to make the findings required for this Permit. It is the intent of the City that the holder of this Permit be required to comply with each and every condition in order to be afforded the special rights which the holder of the Permit is entitled as a result of obtaining this Permit.

In the event that any condition of this Permit, on a legal challenge by the Owner/Permittee of this Permit, is found or held by a court of competent jurisdiction to be invalid, unenforceable, or unreasonable, this Permit shall be void. However, in such an event, the Owner/Permittee shall have the right, by paying applicable processing fees, to bring a request for a new permit without the "invalid" condition(s) back to the discretionary body which approved the Permit for a determination by that body as to whether all of the findings necessary for the issuance of the proposed permit can still be made in the absence of the "invalid" condition(s). Such hearing shall be a hearing de novo and the discretionary body shall have the absolute right to approve, disapprove, or modify the proposed permit and the condition(s) contained therein.

#### **ENGINEERING REQUIREMENTS:**

10. Prior to building occupancy, the owner/permittee shall conform to Section 62.0203 of the Municipal Code, "Public Improvement Subject to Desuetude or Damage." If repair or replacement of such public improvements is required, the owner shall obtain the required permits for work in the public right-of-way, satisfactory to the permit-issuing authority.

11. Prior to the issuance of any construction permit, the owner/permittee shall incorporate any construction Best Management Practices necessary to comply with Chapter 14, Article 2, Division 1 (Grading Regulations) of the San Diego Municipal Code, into the construction plans or specifications.

12. Prior to the issuance of any construction permit, the owner/permittee shall submit a Water Pollution Control Plan (WPCP). The WPCP shall be prepared in accordance with the guidelines in Appendix E of the City's Storm Water Standards.

#### **PLANNING/DESIGN REQUIREMENTS:**

13. No fewer than two (2) off-street parking spaces shall be maintained on the property at all times in the approximate locations shown on the approved Exhibit "A," on file in the Development Services Department. Parking spaces shall comply at all times with the SDMC and shall not be converted for any other use unless otherwise authorized by the City Manager.

14. There shall be compliance with the regulations of the underlying zone(s) unless a deviation or variance to a specific regulation(s) is approved or granted as a condition of approval of this Permit. Where there is a conflict between a condition (including exhibits) of this Permit and a regulation of the underlying zone, the regulation shall prevail unless the condition provides for a deviation or variance from the regulations. Where a condition (including exhibits) of this Permit



002444

establishes a provision which is more restrictive than the corresponding regulation of the underlying zone, then the condition shall prevail.

15. The height(s) of the building(s) or structure(s) shall not exceed those heights set forth in the conditions and the exhibits (including, but not limited to, elevations and cross sections) or the maximum permitted building height of the underlying zone, whichever is lower, unless a deviation or variance to the height limit has been granted as a specific condition of this Permit.

16. A topographical survey conforming to the provisions of the SDMC may be required if it is determined, during construction, that there may be a conflict between the building(s) under construction and a condition of this Permit or a regulation of the underlying zone. The cost of any such survey shall be borne by the Permittee.

17. Any future requested amendment to this Permit shall be reviewed for compliance with the regulations of the underlying zone(s) which are in effect on the date of the submittal of the requested amendment.

18. No building additions, including patio covers, shall be permitted unless approved by the homeowners association and the City Manager. Patio covers may be permitted only if they are consistent with the architecture of the dwelling unit.

19. The use of textured or enhanced paving shall meet applicable City standards as to location, noise and friction values.

20. The subject property shall be maintained in a neat and orderly fashion at all times.

21. The applicant shall obtain construction permits and perform all work to satisfy the Stipulated Agreement dated April 12, 2004. This shall include the following: a) Excavation for, and construction, the proposed subterranean carport and garage improvement; b) The retaining wall in the southern portion of the rear yard; c) The concrete steps adjacent to said retaining wall; d) The previous back-filling and leveling adjacent to said retaining wall; e) The previous removal of vegetation (native or non-native) adjacent to said retaining wall; f) The previous planting of non native species on the coastal bluff; g) The previous installation of a sprinkler system on the coastal bluff; h) The previous repair and/or maintenance of the existing drainage inlet in the public right-of-way at the front of the residence.

Application for construction permits to correct all unpermitted construction and bluff improvements, as described in the Stipulated Agreement dated April 12, 2004, shall be made within 30 days after the effective date of final approval, following all appeals. Said construction permits shall be obtained within 90 days after the effective date of final approval, following all appeals. All modifications to correct unpermitted construction and bluff improvements shall be accomplished within 180 days after the effective date of final approval, following all appeals.

22. All drainage from the improvements on the premises shall be directed away from the coastal bluff and the coastal canyon and either into the existing or newly improved storm drain system. All drainage from any unimproved areas shall be appropriately collected and discharged in order to reduce, control, or mitigate erosion of the coastal bluff.



002445

23. Prior to the commencement of any work or activity authorized by this permit, the Owner/Permittee shall execute a Notice of Hazardous Condition-Indemnification and Hold Harmless Agreement, in a form and content acceptable to the Development Services Department Director, or designated representative which shall provide: a) that the applicant understands that no new accessory structures and landscape features customary and incidental to residential uses shall be developed within five feet of the bluff top or Coastal Canyon (as illustrated on approved plan Exhibit "A," dated January 26, 2005, on file in the Office of the Development Services Department or on the face of the Bluff; and b) that the applicant understands that the site may be subject to extraordinary hazard from coastal bluff and coastal canyon erosion and the applicant assumes the liability from such hazards; and c) the applicant unconditionally waives any claim of liability against the City of San Diego and agrees to defend, indemnify and hold harmless the City of San Diego and its advisors relative to the City of San Diego's approval of the project and for any damage due to natural hazards. This Notice of Hazardous Conditions-Indemnification and Hold Harmless Agreement shall be recorded against title to the property and shall run with the land, binding upon all successor and assigns.

24. Prior to the issuance of construction permits, the Owner/Permittee shall record a Deed Restriction preserving a visual corridor a minimum 4 feet wide along the existing southern side setback in accordance with the requirements of the San Diego Municipal Code section 132.0403(b). Open fencing and landscaping, as depicted on the Exhibit "A" drawings may be permitted within this visual corridor, provided such improvements do not significantly obstruct public views of the ocean. Landscape within this visual corridor shall be planted and maintained not exceed 3'-0" in height in order to preserve public views.

25. No development shall be permitted on the coastal bluff face.

26. Environmentally sensitive lands that are outside of the allowable development area shall be left in a natural state.

27. Construction shall be permitted provided that all construction materials shall be managed so as to prevent them from entering the waters.

28. At grade accessory structures and landscape features customary and incidental to residential uses shall not be closer than five feet to the coastal bluff edge, in accordance with the requirements of the Land Development Code.

29. Prior to the issuance of construction permits all portions of environmentally sensitive lands, including the coastal canyon and coastal bluff, shall be placed in an open space covenant of easement. The covenant of easement shall be recorded against title to the premises and executed in favor of the City in accordance with SDMC 143.0152.

30. All man-made elements shall be removed from the coastal bluff and coastal canyon areas.

31. Prior to the issuance of construction permits the applicant shall grant to the City an emergency access easement from Princess Street to the bluff area, in a manner satisfactory to the City Engineer. Gate access may be permitted, provided that all emergency and safety personnel



002446

can obtain access. The gate shall be equipped with a lockbox with in which is the means of opening the gate. The lockbox must be keyed according to the City Lifeguard's specifications.

32. Prior to the issuance of construction permits, the applicant shall obtain an Encroachment Maintenance, and Removal Agreement, from the City Engineer, for the trench drain modifications that have occurred in Princess Street.

33. The applicant shall obtain construction permits, including a grading permit and building permit, for all work proposed. All construction shall conform to the requirements of the San Diego Municipal Code in a manner satisfactory to the City Manager.

34. Non-native plants shall not be located on the coastal bluff or coastal canyon.

35. All plant material is required to be maintained so as not to interfere with public views to the ocean, to the ratification of the City Manager.

36. No irrigation is permitted on the coastal bluff and the coastal canyon or within 5 feet of the coastal bluff edge.

37. All irrigation systems (existing and proposed) beyond the five-foot bluff setback shall incorporate the following items: a) Include and install a City approved electronically controlled automatic rain shut-off device; b) Include and install a City approved moisture-sensing device for turf irrigation circuits; c) Include and install low precipitation rate nozzles; Heads shall be located to minimize overspray. Adjustment and timing heads shall be coordinated to reduce the potential run-off; d) Include and install an irrigation electronic controller. The controller shall be seasonally adjusted to operate the system with the least practical amount of water applied (minimum evapotranspiration rate).

38. The applicant shall obtain a Coastal Development Permit from the State of California Coastal Commission for all work associated with this permit.

39. Prior to issuance of any construction permits, the owner/permittee shall make arrangements to schedule a pre-construction meeting with Development Services Department Mitigation, Monitoring, and Coordination (MMC) staff. During construction, MMC staff will arrange through the owner/permittee for periodic inspection and prior to final inspection approval of any building permit and/or release of any grading bond MMC shall inspect the site.

**INFORMATION ONLY:**

Any party on whom fees, dedications, reservations, or other exactions have been imposed as conditions of approval of this development permit, may protest the imposition within ninety days of the approval of this development permit by filing a written protest with the City Clerk pursuant to California Government Code section 66020.

APPROVED by the Hearing Officer of the City of San Diego on January 26, 2005.



002447

HEARING OFFICER  
RESOLUTION NO. – 4906-2  
SITE DEVELOPMENT PERMIT NO. 8967  
**KRETOWICZ RESIDENCE – PROJECT NO. 38399**

WHEREAS, Ure R. Kretowicz and Dianne M. Kretowicz, Co-Trustees of The DUK Trust, Owner/Permittee, filed an application with the City of San Diego for permit improvements to an existing single-family residence (as described in and by reference to the approved Exhibits "A" and corresponding conditions of approval for the associated Permit No. 8967, on portions of a 0.070-acre property;

WHEREAS, the project site is located at 7957 Princess Street, in the RS-1-7 Zone, Coastal Overlay Zone (appealable), Coastal Height Limitation Overlay Zone, Beach Parking Impact Overlay zone, Environmentally Sensitive Lands – Sensitive Coastal Bluffs and within the La Jolla Community Planning Area;

WHEREAS, the project site is legally described as Lots 10 and 11, Block 3, Amalfi Subdivision, Map No. 959 and a portion of Lot 1285, Pueblo Lands, Miscellaneous Map No. 0036.

WHEREAS, on January 26, 2005, the HEARING OFFICER of the City of San Diego considered Site Development Permit No. 8967, pursuant to the Land Development Code of the City of San Diego; NOW, THEREFORE,

BE IT RESOLVED by the HEARING OFFICER of the City of San Diego as follows:

That the HEARING OFFICER adopts the following written Findings, dated January 26, 2005.

**FINDINGS:**

**Site Development Permit - Municipal Code Section 126.0504**

**The proposed development will not adversely affect the applicable land use plan.**

The proposed rear yard improvements to an existing single family residence will not adversely affect the La Jolla Community Plan, because the proposed development has been found consistent with the plan's land use designation, Low Density Residential (5-9 du's per acre), RS-1-7 Zone (Single-Family Residential), Environmentally Sensitive Lands – Coastal Bluffs, allowed density, design recommendations and the La Jolla – La Jolla Shores Community Plan and Local Coastal Program Land Use Plan. The 0.070-acre project site is designated for residential development. The current proposal is allow for previous interior garage modifications, retaining walls, rear yard improvements and an easement for emergency lifeguard access on a site developed with an existing single family residence.

**2. The proposed development will not be detrimental to the public health, safety, and welfare.**

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002448

The proposed rear yard improvements and an easement for emergency lifeguard access to an existing single family residence has been designed to comply with all of the applicable development regulations, including those of the RS-1-7 Zone and the Environmentally Sensitive Lands Regulations. During environmental review, it was determined that the project would not have a significant environmental effect, which included an analysis of the project's potential impact on public health and safety, and prepared an Addendum to Negative Declaration, No. 96-7148. The easement for emergency lifeguard access is intended to aid the lifeguards in their duties and thus increase public safety along this portion of coastal bluffs. The rear yard improvements to the existing single family residence would therefore not be detrimental to the public health, safety and welfare.

**3. The proposed development will comply with the applicable regulations of the Land Development Code.**

The proposed rear yard improvements and an easement for emergency lifeguard access to an existing single family residence, will comply with the RS-1-7 Zone development regulations, the Environmentally Sensitive Lands Regulations and Local Coastal Program for the La Jolla – La Jolla Shores Community Plan Area. The project site contained a number of code violations, which includes the rear wood timber stairs, a portion of a retaining wall within the five foot coastal bluff setback, palm trees, and the irrigation system from the bluff area, through this permit approval the project site will correct those past violations. City staff reviewed the proposed plans, the Geology Report and determined that the rear yard improvements will comply with the Environmentally Sensitive Lands – Sensitive Coastal Bluffs, development regulations. The site is zoned RS-1-7, for single family use and the site and proposed development all comply with the requirements of that zone.

**B. Supplemental Findings--Environmentally Sensitive Lands**

**1. The site is physically suitable for the design and siting of the proposed development and the development will result in minimum disturbance to environmentally sensitive lands;**

The proposed, rear yard improvements and an easement for emergency lifeguard access to an existing single family residence, will be located directly within the existing area of disturbance or areas of past disturbance (violations) will be corrected with this permit approval. Based on staff's review of the proposed grading plans with drainage details, landscape plans, and the project's Geologic Reconnaissance Report it was determined that the proposed site has adequate geologic stability, all drainage will be directed back toward the street and away from the bluff, and the landscape material will not require irrigation, resulting in a minimum disturbance to the adjacent coastal bluffs (environmentally sensitive lands).

**2. The proposed development will minimize the alteration of natural land forms and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards;**



002449

The proposed, rear yard improvements and an easement for emergency lifeguard access to an existing single family residence will be located within an area of previous disturbance, or areas of past disturbance (violation) that is to be corrected, so there will be no further alteration of the natural land form with this development. The project site is located in a seismically active region and the potential exists for geologic hazards. A Geologic Reconnaissance Report was prepared by a licensed engineering geologist and reviewed, which addressed the geologic hazards potentially affecting the proposed project. The report concluded that the site is stable enough to support the proposed coastal bluff setback, would not contribute to significant geologic instability and that there are no other site-specific conditions that pose a significant geologic hazard to the proposed project. The removal of the unauthorized bluff improvements and the required revegetation will minimize the risk from geologic and erosional forces onsite. Existing shrubs and groundcover within the bluff area will remain without support from handwatering or automatic irrigation in an effort to reduce further adverse impacts to the bluff. The submitted Geologic Report was evaluated by the City Geologist. The proposed project complies with the recommendations and requirements of that report. Fire hazards are not anticipated from the proposed exterior improvements.

**3. The proposed development will be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands;**

The proposed, rear yard improvements and an easement for emergency lifeguard access to an existing single family residence, is sited within the portion of the site previously disturbed (existing development) or in areas of unauthorized disturbance to be corrected, which is within the Sensitive Coastal Resources/Environmentally Sensitive Lands (Coastal Bluffs). The project was designed to direct drainage away from the coastal bluff, to correct past unauthorized disturbance, to utilize landscape material which would not need irrigation, and to place all structures/improvements all within the area of past disturbance and away from the bluff. The proposed development was found through the City's review process (Site Development Permit Review, Geology Review, and Environmental Analysis) to have no further impacts to nor encroachment into environmentally sensitive lands. As discussed in the Addendum to Negative Declaration No. 96-7148, impacts to environmentally sensitive lands will be minor and no mitigation is required.

**4. The proposed development will be consistent with the City of San Diego's Multiple Species Conservation Program (MSCP) Subarea Plan;**

The project site contains "Sensitive Coastal Resources - Coastal Bluffs" along the site's western edge, and is within an area that is developed with residential development on the other three sides. The project site is not located in or adjacent to the MSCP lands, thus it not subject to any MSCP development regulations.

**5. The proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply; and**

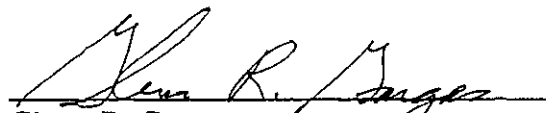


The proposed, rear yard improvements and an easement for emergency lifeguard access to an existing single family residence, is located on a property which is directly adjacent to the local shoreline on a bluff above the Pacific Ocean. The bluff edge is approximately 50 feet above the mean high tide line. Other than the removal of unpermitted bluff face obstructions and the revegetation of those areas, all proposed improvements will be located at least five feet from the bluff edge. The project was designed to direct all drainage away from the coastal edge portion of the site and into the public storm drain system. The landscape plan and materials were designed to minimize any need for irrigation. Through the Environmental Review process ( Addendum to Negative Declaration No. 96-7148), no erosion or drainage related issues which would impact the local shoreline were identified nor anticipated.

**6. The nature and extent of mitigation required as a condition of the permit is reasonably related to, and calculated to alleviate, negative impacts created by the proposed development.**

The proposed development is to allow for rear yard improvements and an easement for emergency lifeguard access to an existing single family residence on the 0.070-acre property. A portion of this proposed project is designed to correct past violations in and around the coastal bluff edge. The Environmental Document, (Addendum to Negative Declaration No. 96-7148), the Initial Study and subsequent study of the revised project, it was determined that the proposed project will not have significant effect on the environment. No mitigation measures were required.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the HEARING OFFICER, Coastal Development Permit No. 8856 and Site Development Permit No. 8857, are hereby GRANTED by the HEARING OFFICER to the referenced Owner/Permittee, in the form, exhibits, terms and conditions as set forth in Permit Nos. 8856 & 8857, a copy of which is attached hereto and made a part hereof.

  
Glenn R. Gargas  
Development Project Manager  
Development Services

Adopted on: January 26, 2005

Job Order No. 42-2866

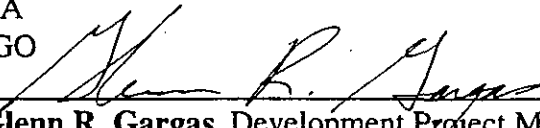
cc: Legislative Recorder, Planning Department



002451

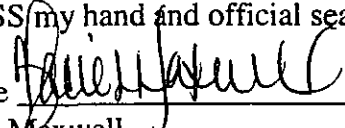
## ALL-PURPOSE CERTIFICATE

42-2866/38399

Type/PTS Approval Number of Document SDP 8967Date of Approval January 26, 2005STATE OF CALIFORNIA  
COUNTY OF SAN DIEGO  
Glenn R. Gargas, Development Project Manager

On April 20, 2005, before me, Stacie L. Maxwell, (Notary Public), personally appeared **Glenn R. Gargas**, Development Project Manager of the Development Services Department of the City of San Diego, personally known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

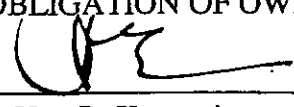
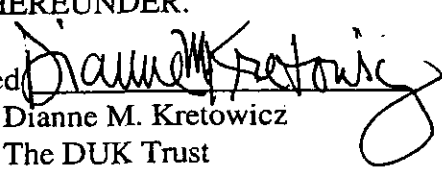
WITNESS my hand and official seal

Signature   
Stacie L. Maxwell

## ALL-PURPOSE CERTIFICATE

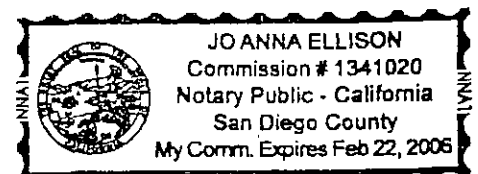
OWNER(S)/PERMITTEE(S) SIGNATURE/NOTARIZATION:

THE UNDERSIGNED OWNER(S)/PERMITTEE(S), BY EXECUTION THEREOF, AGREES TO EACH AND EVERY CONDITION OF THIS PERMIT AND PROMISES TO PERFORM EACH AND EVERY OBLIGATION OF OWNER(S)/PERMITTEE(S) THEREUNDER.

Signed   
Ure. R. Kretowicz  
The DUK TrustSigned   
Dianne M. Kretowicz  
The DUK TrustSTATE OF CALIFORNIA  
COUNTY OF SAN DIEGO

On APRIL 26, 2005, before me, JO ANNA ELLISON, (Name of Notary Public) personally appeared URE. R. KRETOWICZ & DIANNE M. KRETOWICZ, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature 

ORIGINAL



## CALIFORNIA COASTAL COMMISSION

SAN DIEGO AREA

7575 METROPOLITAN DRIVE, SUITE 103

SAN DIEGO, CA 92108-4421

(619) 767-2370



002453

**Thu 10a**

Filed: 4/3/07  
180<sup>th</sup> Day: 9/30/07  
Staff: L. McEachern- SD  
Staff Report: 5/30/07  
Hearing Date: 6/13-15/07

AMENDMENT REQUEST  
STAFF REPORT AND PRELIMINARY RECOMMENDATION

Application No.: A-133-79-A2/F6760-A3

Applicant: Ure &amp; Diane Kretowicz

Agent: SB&amp;O, Inc.

**Original Project**

Description: Construction of a 3,066 sq. ft. first floor addition to an existing 1,350 sq. ft. two-story, single-family residence on a 1.3 acre blufftop site.

**Proposed**

Amendment: 1) Change in the location and terms of the offer to dedicate vertical public access easement; 2) request after-the-fact approval for fence/gate across entrance to vertical public access easement area; 3) construct and improve public viewing area in the public right-of-way adjacent to the home; and 4) payment of \$200,000.00 towards feasibility investigation, design processing, professional consulting fees and construction costs to replace "Angel's Flight" public beach access stairway as mitigation for the change in terms of the vertical public access easement.

Site: 7957 Princess Street, La Jolla, San Diego, San Diego County.  
APN 350-151-01 & -02

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**STAFF NOTES:****History**

The Regional Coastal Commission's original approval of the application (F6760) for an addition to a single-family residence was appealed to the State Coastal Commission in 1978. The Commission found that the appeal raised no substantial issue. However, a lawsuit was filed against the Commission for, among other things, not having made adequate findings regarding public access pursuant to Section 30604 of the Act. The court ordered that the matter be remanded back to the Regional Commission for a specific finding on only the issue of public access and recreation. The court allowed the development to go forward in the interim because the petitioners failed to post the necessary bond for their stay. The Regional Commission adopted findings regarding public access but did not impose any requirement for provision of public access at the



002454

site. This decision was then again appealed to the State Commission (A-133-79) who found that the appeal raised a substantial issue. On de novo, the State Commission approved the project with an additional condition that required the applicant to record an offer to dedicate a vertical public access easement (5 ft. in width extending from Princess Street along the southern edge of the property next to the garage and then in a northwesterly direction along the top of the slope and then back in a southwesterly direction, traversing down the face of the bluff to the beach), as well as a lateral public access easement. The Commission found that without this condition, the addition would interfere with existing public access (ref. Exhibit #5). The State Commission found that because the residential addition displaced a blufftop viewpoint and trail to the beach on the site, that public access should be required elsewhere on the site. Thus, the State Commission required that the applicant record an offer-to-dedicate (OTD) easement for public access extending from Princess Street to the mean high tide line. However, as noted above, the court had allowed the applicant to continue with the development under the original permit because the petitioners failed to post the necessary bond for their stay while the Commission reviewed the proposal again on remand, and thus, the requirement for recordation of the OTD occurred after the development was already complete. The applicant never recorded the offer required by the State Commission. The property was subsequently sold.

In June of 2005, the Commission reviewed an amendment request by a subsequent property owner to replace the requirement for the offer to dedicate public vertical access with an easement for emergency lifeguard access only and payment of \$10,000.00 for public access improvements in the La Jolla area. The amendment request also included a request to remove various unpermitted improvements on the face of the coastal bluff, modify an existing rear yard retaining wall and install a patio, barbecue and landscaping in the rear yard. In its action, the Commission denied the applicant's request to revise the OTD requirement, but approved the other proposed improvements, except those located within the alignment of the access easement or those that could interfere with use of the access in the future. The applicant subsequently filed suit against the Commission regarding that decision. The subject amendment application is a result of a settlement agreement reached between the applicant and the Commission.

**Summary of Staff's Preliminary Recommendation:**

Staff recommends that the Commission approve the proposed amendment subject to special conditions. The proposed amendment implements the settlement agreement in *Kretowicz v. California Coastal Commission*. The terms of the OTD will be revised so that the easement cannot be opened until the year 2080. However, the easement area will be widened from 5 feet to 20 feet (with the area designated for access limited to 10 feet), which will facilitate construction of a stairway to the beach. In addition, the amendment includes funding toward reconstruction of Angel's Flight stairway, a public stairway that used to extend from a public path (Coast Walk) down to the same beach that is below the subject site. The reconstruction of Angel's Flight would be a substantial public access amenity in this area. Therefore staff recommends the Commission approve the amendment request, subject to the special conditions detailed herein.



002455

A-133-79-A2/F6760-A3

Page 3

**Standard of Review:** The City of San Diego certified Local Coastal Program (LCP) and the public access and recreation policies of the Coastal Act.

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**I. PRELIMINARY STAFF RECOMMENDATION:**

The staff recommends that the Commission adopt the following resolution.

**MOTION:**                    *I move that the Commission approve the proposed amendment to Coastal Development Permit No. A-133-79/F6760 pursuant to the staff recommendation.*

**STAFF RECOMMENDATION OF APPROVAL:**

Staff recommends a YES vote. Passage of this motion will result in approval of the amendment as conditioned and adoption of the following resolution and findings. The motion passes only by affirmative vote of a majority of the Commissioners present.

**RESOLUTION TO APPROVE A PERMIT AMENDMENT:**

The Commission hereby approves the coastal development permit amendment on the ground that the development as amended and subject to conditions, will be in conformity with the provisions of the certified Local Coastal Program and the public access and recreation policies of the Coastal Act. Approval of the permit amendment complies with the California Environmental Quality Act because either 1) feasible mitigation measures and/or alternatives have been incorporated to substantially lessen any significant adverse effects of the amended development on the environment, or 2) there are no feasible mitigation measures or alternatives that would substantially lessen any significant adverse impacts of the amended development on the environment.

**II. Special Conditions.**

The permit amendment is subject to the following conditions:

The following shall replace Special Condition #1 of CDP #A-133-79-A1/F6760-A2 in its entirety:

1. **Revised Final Plans.** PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, the applicant shall submit to the Executive Director for review and written approval, final plans for the proposed development, including a site plan that has been approved by the City of San Diego. Said plans shall be in substantial conformance with the plans prepared by SB&O, Inc. Planning Engineering Surveying, dated 1/30/07, except they shall be revised as follows:



002456

A-133-79-A2/F6760-A3

Page 4

a. No fencing and/or patio improvements (including the proposed built-in barbeque) shall be permitted in the south side yard area within the area of the Offer-to-Dedicate Access Easement as delineated in the site plan approved by the Executive Director in section (1) above. With the exception of the approved wall and gate, no other improvements shall be permitted which would interfere with this access easement or block public views to the ocean across the area of the access easement. Any accessory improvements needing to be moved to avoid impacts to the access easement may be relocated on the site, subject to review and written approval of the Executive Director.

b. All existing and proposed accessory improvements shall be identified. All accessory improvements (including, but not limited to, patios, decks, walkways, and open shade structures) proposed within the rear yard (west of the residence adjacent to the coastal bluff) area must be "at-grade" and located no closer than 5 ft. from the edge of the existing slope/bluff, as delineated on the site plan dated 1/30/07 by SB&O, Inc.

The permittee shall undertake the development in accordance with the approved plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

**The following shall replace Special Condition #3 of CDP #A-133-79-A1/F6760-A2 in its entirety:**

**3. Revised Landscape/Yard Area Fence Plans. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT,** the applicant shall submit to the Executive Director for review and written approval, revised landscaping and fence plans approved by the City of San Diego. The plans shall be in substantial conformance with the plans as submitted by SB&O, Inc. Planning Engineering Surveying, dated 1/30/07, Garbini and Garbini Landscape Arcitecture dated 3/6/07 and by Marengo Morton Architects dated 4/2/07, except for the revisions cited below. The plans shall be revised to keep the side yard (south of the residence) and the proposed public viewing area clear to enhance public views toward the ocean. Specifically, the plans shall be revised to incorporate the following:

a. A view corridor a minimum of 4 ft. wide shall be preserved along the southern side yard. All landscape materials within the southern yard area and the proposed public viewing area shall be species with a growth potential not expected to exceed three feet at maturity. In addition, all landscaping in the southern yard area and the proposed public viewing area shall be maintained at a height of three feet or lower to preserve views toward the ocean.

b. The landscape palette shall emphasize the use of drought-tolerant native species, but use of drought-tolerant, non-invasive ornamental species and lawn area, is



002457

A-133-79-A2/F6760-A3

Page 5

allowed as a small component. No plant species listed as problematic and/or invasive by the California Native Plant Society, the California Invasive Plant Council, or as may be identified from time to time by the State of California shall be employed or allowed to naturalize or persist on the site. No plant species listed as 'noxious weed' by the State of California or the U.S. Federal Government shall be utilized.

- c. No permanent irrigation shall be permitted on the site.
- d. The proposed fencing/gate in the south yard area shall be revised such that it does not extend beyond the southern property boundary onto the adjacent property, shall be no higher than 92 inches tall, shall not obstruct public views toward the ocean and shall have at least the upper 75 percent of its surface area open to light.
- e. A written commitment by the applicant that all required plants on this site and on the public viewing area shall be maintained in good growing condition and whenever necessary, shall be replaced with new plant materials to ensure compliance with the approved landscape requirements shall be included.
- f. Rodenticides containing any anticoagulant compounds (including, but not limited to, Warfarin, Brodifacoum, Bromadiolone or Diphacinone) shall not be used.
- g. Five years from the date of issuance of the coastal development permit, the applicant shall submit for review and written approval of the Executive Director, a landscape monitoring report, prepared by a licensed Landscape Architect or qualified Resource Specialist, that certifies the on-site landscaping is in conformance with the landscape plan approved pursuant to this Special Condition. The monitoring report shall include photographic documentation of plant species and plant coverage.

If the landscape monitoring report indicates the landscaping is not in conformance with or has failed to meet the performance standards specified in the landscaping plan approved pursuant to this permit, the applicant, or successors in interest, shall submit a revised or supplemental landscape plan for the review and written approval of the Executive Director. The revised landscaping plan must be prepared by a licensed Landscape Architect or Resource Specialist and shall specify measures to remediate those portions of the original plan that have failed or are not in conformance with the original approved plan.

The permittee shall undertake the development in accordance with the approved landscape and fence plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without a Commission-approved amendment to the permit unless the Executive Director determines that no such amendment is legally required.



002458

A-133-79-A2/F6760-A3

Page 6

The following shall replace Special Condition #1A of CDP #A-133-79 and is added as new Special Condition #8:

**8. Public Lateral Access.** PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT, the applicant shall execute and record a document, in a form and content acceptable to the Executive Director, irrevocably offering to dedicate to a public agency or private association approved by the Executive Director an easement for lateral public access and passive recreational use along the shoreline. The document shall provide that the offer of dedication shall not be used or construed to allow anyone, prior to the acceptance of the offer, to interfere with any rights of public access acquired through use which may exist on the property. The area of dedication shall consist of the entire width of the property from the mean high tide line to the toe of the bluff. The recorded document shall include legal descriptions of both the entire project site and the area of dedication. The document shall be recorded free of prior liens and any other encumbrances which the Executive Director determines may affect the interest being conveyed. The offer shall run with the land in favor of the People of the State of California, binding all successors and assignees, and shall be irrevocable for a period of 21 years, such period running from the date of recording.

The following shall replace Special Condition #1B of CDP #A-133-79 and is added as new Special Condition #9:

**9. Vertical Access Condition.**

**A. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT,** the applicant shall execute and record a document, in a form and content acceptable to the Executive Director, irrevocably offering to dedicate to a public agency or private association approved by the Executive Director an easement for public pedestrian access to the shoreline. Upon acceptance of the offer, the easement shall become available for public use no earlier than December 31, 2080. The entire easement area shall be available for siting a footpath or stairway (or both should a foot path be used in lieu of or prior to construction of a stairway) and for construction activities related to a footpath and/or stairway, but once a footpath has been identified and/or a stairway built, public access shall not occur outside of the footpath or stairway except as necessary for repair and maintenance or except as necessary to move the access area because of erosion or other geologic factors affecting the safety of the access. If the easement holder decides to construct a stairway, the easement holder shall consult with the property owner with respect to design of the stairway. A stairway shall not require the property owner to remove the drainpipe outfall that currently exists at the base of the bluff. Once opened by the easement holder, the vertical public access easement shall be open daily, from one half hour before sunrise to one half hour after sunset. The easement holder shall be responsible for maintenance, trash collection and acceptance of liability. After acceptance and when available for public use, the easement holder may replace or modify the gate and fence across the entrance to the easement. After acceptance, the easement



holder will have the right to build a stairway down the bluff leading to the ocean pursuant to all required government approvals.

- B. The area of dedication shall consist of a corridor 20 feet wide along the southern boundary of the property which shall extend from the Princess Street Right-of-Way to the mean high tide line, except that between the street and the along the house up to the western limit of the house, the vertical public easement shall extend from the southern edge of the house to the southern boundary of the property (ref. Exhibit #2). Although the vertical public easement extends to 20 feet wide, the area of public use for access to the ocean shall be no wider than 10 feet. The easement holder shall have the authority to determine where the 10 foot wide public access area will be located within the 20 foot wide easement area, provided that the public access shall be located as close to the southern property boundary as feasible.
- C. The recorded document shall include legal descriptions of both the entire project site and the area of dedication. The document shall be recorded free of prior liens and any other encumbrances which the Executive Director determines may affect the interest being conveyed. The offer shall run with the land in favor of the People of the State of California, binding all successors and assignees, and shall be irrevocable until December 31, 2080. This easement shall not be removed or changed without a Coastal Commission approved amendment to this coastal development permit unless the Executive Director determines that no amendment is legally required.

**The following shall be added as new Special Condition #10:**

**10. Lifeguard Emergency Vertical Access. PRIOR TO ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT**, the applicant shall execute and record a document, in a form and content acceptable to the Executive Director, which grants to the City of San Diego an easement for emergency lifeguard access to the shoreline. The area of dedication shall consist of a corridor five (5) feet wide generally along the southern boundary of the property which shall extend from the Princess Street Right-of-Way to the mean high tide line. The easement shall also provide for a key to the gate or other means to allow access by the lifeguards. The grant of easement shall include formal legal descriptions of both the entire project site and the area of dedication. The document shall be recorded free of prior liens and any other encumbrances which the Executive Director determines may affect the interest being conveyed and shall run with the land on behalf of the City of San Diego and the people of the State of California, binding all successors and assigns.

**The following shall be added as new Special Condition #11:**

**11. Final Public Viewing Area Plans. PRIOR TO THE ISSUANCE OF THE COASTAL DEVELOPMENT PERMIT AMENDMENT**, the applicant shall submit for review and written approval of the Executive Director final plans for the public



002460

A-133-79-A2/F6760-A3

Page 8

viewing area that include, at a minimum a bench, sidewalk and steps, landscaping and public access signage. Said plans shall be approved by the City of San Diego and be in substantial conformance with the plans submitted with this application dated 3/6/07 by Garbini & Garbini Landscape Architecture, except they shall be revised as follows:

- a. Three signs shall be installed; one on Princess Street, one on Spindrift Drive and one on the corner of North Torrey Pines Road and Spindrift Drive, indicating the availability of the viewing area for public use.

The permittee shall undertake the development in accordance with the approved final plans. Any proposed changes to the approved plans shall be reported to the Executive Director. No changes to the plans shall occur without a Commission-approved amendment to the permit unless the Executive Director determines that no such amendment is legally required.

**The following shall be added as new Special Condition #12:**

**12. Prior Conditions of Approval.** All other terms and conditions of Coastal Development Permit No. A-133-79/F6760, as amended, not specifically modified herein, shall remain in full force and effect.

**The following shall be added as new Special Condition #13:**

**13. Condition Compliance.** **WITHIN 60 DAYS OF COMISSION ACTION ON THIS COASTAL DEVELOPMENT PERMIT AMENDMENT**, or within such additional time as the Executive Director may grant for good cause, the applicants shall satisfy all requirements specified in the conditions hereto that the applicants are required to satisfy prior to issuance of this permit. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.

**The following shall be added as new Special Condition #14:**

**14. Implementation of Removal and Replacement of Existing Wall and Gate.** **WITHIN 90 DAYS OF ISSUANCE OF AMENDED COASTAL DEVELOPMENT PERMIT NO. A-133-79-A2/F6760-A3**, or within such additional time as the Executive Director may grant for good cause, the applicant shall remove the existing wall and gate located at the south side yard setback area and replace the wall and gate consistent with the plans approved pursuant to Special Condition #3 of this permit amendment. Failure to comply with this requirement may result in the institution of enforcement action under the provisions of Chapter 9 of the Coastal Act.



The following shall be added as new Special Condition #15:

**15. Payment of \$200,000.**

- A. The applicant shall pay \$200,000.00 to the La Jolla Conservancy (Conservancy), in accordance with the agreement required in subsection B below, to be used towards feasibility investigations, design processing, professional consulting fees, construction costs (and future maintenance) to replace the Angel's Flight historic stairway leading from the Coast Walk public access path in La Jolla, down to the beach.
- B. **PRIOR TO ISSUANCE OF AMENDED COASTAL DEVELOPMENT PERMIT NO. A-133-79-A2/F6760-A3 and only after the Executive Director of the Coastal Commission has indicated, in writing, that the Commission has entered into a Memorandum of Understanding (MOU) with the Conservancy outlining the process for exploring the feasibility of, and reconstructing the Angel's Flight stairway,** the applicant shall provide to the Conservancy, through a financial instrument subject to review and written approval of the Executive Director, \$200,000.00 as described in subsection A above, payable to the Conservancy. These funds shall be used for the purposes described in subsection A above in accordance with the MOU, which, at a minimum shall include the following provisions: 1) the Conservancy shall take all steps necessary to achieve replacement of the Angel's Flight stairway; 2) the conservancy shall utilize \$150,000.00 of the funds for the purpose of feasibility investigations, design processing, professional consulting fees, permitting and construction costs to replace the Angel's Flight stairway; 3) \$50,000.00 of the funds shall be set aside in an interest bearing account to be used solely for periodic maintenance of the stairway after construction is complete; 4) the funds must be deposited in separate and independent interest bearing accounts created solely to manage the funds and for future maintenance as well as provisions to limit the use of the funds for administrative costs (which shall not exceed 5% of the total funds); 5) if the Conservancy, in consultation with the Executive Director, determines that the replacement is infeasible, or fails to obtain permits, or fails to construct the Angel's Flight stairway due to lack of funding, within five (5) years, any remaining funds (including the \$50,000.00 put aside for future maintenance), shall be paid to the state Coastal Conservancy Violation Remediation Account for use for access improvements in the La Jolla area.

**III. Findings and Declarations.**

The Commission finds and declares as follows:

1. **Amendment Description.** The proposed project represents an amendment to a coastal development permit approved by the Commission for the construction of a 3,066 sq. ft. addition to an existing 1,350 sq. ft. single-family residence 1979. The proposal is to change the location and terms of the previously required offer to dedicate a public



002462

A-133-79-A2/F6760-A3

Page 10

access easements, request after-the-fact approval for a wall and gate across the entrance to the vertical public access easement area, and to construct and improve a public access viewing area in the public right-of-way adjacent to the home. Specifically, the amendment request includes:

(1) The applicant proposes to replace the existing requirement for recordation of offers to dedicate both lateral and vertical public access easements with the following:

- (a) Emergency Lifeguard Access. Upon approval of the amendment, the applicant proposes to grant to the City of San Diego an easement for emergency lifeguard access to the beach.
- (b) Lateral Public Access. Upon approval of the amendment, the applicant proposes to record an offer to dedicate an easement for lateral public access on the beach from the toe of the bluff to the mean high tide line.
- (c) Vertical Public Access. Upon approval of the amendment, the applicant proposes to record an offer to dedicate an easement for vertical public access from the street to the beach subject to the following terms and conditions:
  - Record an offer to dedicate an easement for general public vertical access in a form and content acceptable to the Executive Director which shall become available for public use no earlier than December 31, 2080, and then, only when a public agency or non-profit organization accepts the easement offer.
  - The width of the vertical public easement shall be at least 20 feet wide, except that along the garage/house up to the western limit of the house, the vertical public easement shall extend from the southern edge of the house to the southern boundary of the property. Although the vertical public easement extends to 20 feet wide, the area of public use for access to the ocean shall be no wider than 10 feet. The easement holder shall have the authority to determine where the 10 foot wide public access area will be located within the 20 foot wide easement area, provided that the public access shall be located as close to the southern property boundary as feasible. The entire easement area shall be available for siting a footpath or stairway (or both should a footpath be used in lieu of or prior to construction of a stairway) and for construction activities related to a footpath and/or stairway, but once a footpath has been identified and/or a stairway built, public access shall not occur outside of the footpath or stairway except as necessary for repair and maintenance or except as necessary to move the access area because of erosion or other geologic factors affecting the safety of the access. If the easement holder decides to construct a stairway, the easement holder shall consult with the property owner with respect to design of the stairway. A stairway shall not require the property owner to remove the drainpipe outfall that currently exists at the base of the bluff.
  - Once opened by the easement holder, the vertical public access easement shall be open daily, from one half hour before sunrise to one half hour after sunset. The easement holder shall be responsible for maintenance, trash collection and acceptance of liability.



002463

- After acceptance and when available for public use, the easement holder may replace or modify the gate and fence across the entrance to the easement.
- After acceptance, the easement holder will have the right to build a stairway down the bluff leading to the ocean pursuant to all required government approvals.

(2) In exchange for revising the terms and location of the vertical public access easement, the applicant proposes the following:

- Construct a public viewing area within the small triangular area of public right-of-way located across Princess Street from the subject site. Improvements shall include, at a minimum, a public bench, sidewalk, landscaping and signage.
- Contribute \$200,000 towards feasibility investigations, design, processing, professional consulting fees, construction and maintenance cost to replace an historic stairway known as "Angel's Flight" that was destroyed by fire in 1960. The stairway will be located just across La Jolla Bay from the subject site and will extend from the Coast Walk public trail down the bluff, following a steep gorge known as the "Devil's Slide", to the beach (the same beach that the subject site leads to). If reconstruction of the stairway is infeasible and/or cannot be permitted, all remaining funds shall be paid to the State Coastal Conservancy Violation Remediation Fund to be used for public access improvements in the La Jolla area.

(3) The applicant proposes to retain an existing unpermitted wall and gate at the entrance to the vertical access easement along the southeastern portion of the site.

The 1.31 acre site is situated atop a 55-ft. high coastal bluff located off a cul-de-sac at the northern terminus of Princess Street in the La Jolla community of the City of San Diego. The existing residence is situated on the flatter portion of the site, directly adjacent to Princess Street, with the site sloping steeply down from the home to the north and west. There is no existing shoreline or bluff protection on the subject site. Surrounding development includes single family homes to the east and south and the Pacific Ocean to the north and west.

The City of San Diego has a certified LCP, and the subject site is within the City's permit jurisdiction. However, since the subject application represents an amendment to a Commission-approved coastal development permit, the Commission has jurisdiction over this application. Nevertheless, the standard of review is the certified LCP (the La Jolla Land Use Plan and the City's Land Development Code) and, because the subject site is between the sea and the first public road, the public access and recreation policies of the Coastal Act.

**2. Detailed Project History.** The home on the site was originally constructed around 1915. Over the years, the home was added to and remodeled several times. In June of 1977, the Regional Commission denied an application (#F5265) for a substantial addition



C02461

A-133-79-A2/F6760-A3

Page 12

(3,300 sq. ft.) to the 1,350 sq. ft. home on the site, finding that the development would have a significant adverse impact on scenic resources in the area as it would significantly encroach onto the visually prominent bluff seaward of the existing home.

In June of 1978, the Regional Commission approved CDP #F6760 for construction of a 3,066 sq. ft. addition to the existing 1,350 sq. ft. single-family residence, finding that this "scaled-back" version of the previous application did not project further seaward than the existing line of development, thereby reducing its impact on visual resources. The permit was approved with special conditions requiring that the development comply with the recommendations of the geology report, that the southwest corner of the proposed addition (15 ft. x 15 ft.) be cantilevered to "ensure the integrity of the slope", and that the final drainage plans be submitted. The decision on this matter was subsequently appealed to the State Commission (A-221-78), but the State Commission found that the appeal raised no substantial issues on July 18, 1978. The grounds for the appeal were that inadequate public access findings were made.

A lawsuit was then filed against the Commission for, among other things, not having made adequate findings regarding public access and recreation as required by Section 30604 of the Coastal Act for development located between the first public road and the sea. The court subsequently found that the development was located between the first public road and the sea and that the finding on public access and recreation was not sufficiently specific to comply with the requirements of Section 30604(c) of the Act. The court ordered that the matter be remanded back to the Regional Commission for a specific finding on only the issue of public access and recreation. In addition, the court allowed the development to go forward in the interim because the petitioners failed to post the necessary bond for a stay. The Regional Commission subsequently adopted more specific findings regarding public access and recreation but did not impose any special requirements for the provision of public access at the site. This decision was then also appealed to the State Commission (A-133-79).

On September 20, 1979, the State Commission found that additional public access provisions should be required. Specifically, the Commission found:

...access to this pocket beach is only available at low tide due to the promontories which impede access to the beach from the nearest accessway to the shoreline which is located ¼ mile up coast. The Commission concludes, therefore, that adequate access does not exist nearby. Although the public has historically had access over the project site, construction of the project has preceded the use of this accessway, thereby diminishing the public's right of access to the state owned tidelands. An alternative accessway must, therefore, be provided to offset the burdens this development has placed on the public's constitutional right of access and to assure the conformity of the project with the provisions of Section 30212 of the Act.

The Commission imposed a special condition on the permit requiring the applicant to record offers to dedicate both lateral (across the ocean frontage of the parcel from the toe of the bluff to the mean high tide line) and vertical (5 ft. in width extending from Princess



Street along the southern edge of the property next to the garage and then in a northwesterly direction along the top of slope and then back in a southwesterly direction, traversing down the face of the bluff to the beach) public access easements. By the time the Commission imposed the access conditions, the applicant had already completed construction of the proposed addition in compliance with the permit as previously issued. Therefore, the State Commission required that the vertical access be located in a slightly different location than the historic trail in order to accommodate the addition. The offers to dedicate access were not recorded. Because the permit for the addition was remanded, and subsequently issued during the litigation and appeal, it retained the original application number F6760. However, because the State Commission heard a second appeal, it gave the permit a new number – A-133-79. Therefore, the permit for the addition is identified by both numbers: A-133-79/F6760.

Then, in 1980, the applicant requested and received approval of an amendment to the permit to authorize drainage structures which had already been constructed without authorization (Ref. CDP #F6760-A1). That is, the applicant implemented the drainage improvements without authorization and subsequently received approval through an after-the-fact permit amendment for the revised drainage plans.

In 1988, the Commission certified the City of San Diego's Local Coastal Program and the City began issuing coastal development permits for development within its jurisdiction, including La Jolla where the subject site is located.

In 1999, the City of San Diego approved a coastal development permit for construction of a pool with spa, a concrete deck, barbecue counter, retaining walls, drains and landscaping in the rear yard of the blufftop site that contains the existing single-family residence. The proposal also included removal of a number of existing unpermitted improvements (wooden timber stairs, retaining walls and palm trees) on the face of the coastal bluff. No changes to the existing single-family residential structure were proposed. The City's decision to approve the development was appealed by the Commission on June 25, 2001 (ref. Appeal #A-6-LJS-01-95). The basis of the appeal was that the proposed development was allegedly inconsistent with the certified LCP as it related to blufftop setbacks, geologic hazards, protection of public views and public access. In particular, a swimming pool was proposed projecting beyond the bluff edge of the subject site. The certified LCP requires such structures to be sited a minimum distance of 25 feet from the edge of the bluff. A second major issue raised with the project was that it was inconsistent with the conditions of approval of Coastal Development Permit #A-133-79/F6760, which required recordation of an offer for a public vertical access easement across the subject site.

The appeal was thus scheduled for Commission review. On August 6, 2001, the Commission found that a Substantial Issue existed with respect to the grounds on which the appeal was filed. The de novo review of the permit application was subsequently scheduled for the Commission's October, 2001 meeting and then again at its June, 2002 meeting. Both times the project was postponed by the applicant. Subsequently, on May 14, 2002, the project was withdrawn by the applicant, which resulted in no permit for the development at the City or the Coastal Commission. The City subsequently sued the



002466

A-133-79-A2/F6760-A3

Page 14

applicant over the unpermitted development that was present on the site. At this time, the applicant worked with both the Coastal Commission's enforcement staff as well as the City's code enforcement staff to resolve the outstanding violations.

As part of the resolution of the outstanding violations on the subject site (and the related litigation that the City had instituted against the applicant), the applicant entered into a "Stipulated Judgment" with the City of San Diego, dated April 4, 2004, and, as agreed upon by the City and the applicant, the applicant then proceeded to seek an amendment to the previous Coastal Development Permit with the Coastal Commission, concurrent with the City's Site Development Permit, to address all the unpermitted development. As explained above, the State Commission revised CDP #F6760 to include the requirements for public access. As noted above, some of the development proposed by the applicant would block access to the area of the offer to dedicate a public access easement that was required in CDP A-133-79/F6760. However, since the Regional Commission permit was issued, this application is referred to as an amendment to both the State Commission permit (A-133-79) and the Regional Commission permit (#F6760).

Then in 2006, the applicant requested an amendment to the State/Regional Commission permit to: (1) replace the requirement for recordation of an offer to dedicate a vertical public access easement with a) an easement solely for emergency lifeguard access and, b) contribute \$10,000 to enhance coastal access or other coastal improvements in the La Jolla area; 2) after-the-fact approval for the removal of unpermitted improvements on the subject site consisting of rear wood timber stairs, a portion of a retaining wall within the five foot coastal bluff setback, palm trees and the irrigation system; 3) construct an at-grade concrete patio, barbeque counter, area drains, staircase and landscaping; and 4) construct interior garage improvements to include excavation and removal of approx. 130 cy. of uncompacted fill material to allow an additional parking space and a car lift and storage (Ref. CDP #A-133-79-A1/F6760-A2/Kretowicz). On June 14, 2005, the Commission denied the applicant's request to replace/modify the previously required vertical public access easement, however, it approved all other proposed improvements with a requirement that they be modified such that no improvements occur within the alignment of the required access easement.

On August 5, 2005, the applicant filed litigation against the Commission regarding its decision to deny the modification to the previously required public access easement (Ref. SDSC Case No. GIC 851915). The Commission subsequently filed a Cross-Complaint, claiming, among other things, violations of the Coastal Act. The proposed amendment request is a result of settlement negotiations between the applicant and the Commission (Ref. Exhibit #6 - Stipulation for Entry of Judgment attached).

**3. Public Access.** Because this site is between the sea and the first public road parallel to the sea, pursuant to California Public Resources Code section 30604(c), any development must comply with the public access and recreation policies of the Coastal Act. Several policies of the Coastal Act require that new development protect or enhance public access and recreational opportunities to and along the shoreline. These policies include:



Section 30210

In carrying out the requirements of Section 4 of Article X of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse.

Section 30211

Development shall not interfere with the public's right of access to the sea where acquired through use or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation. [emphasis added]

Section 30212

(a) Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where:

(1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources,

(2) adequate access exists nearby, or, ....

Section 30221

Oceanfront land suitable for recreational use shall be protected for recreational use and development unless present and foreseeable future demand for public or commercial recreational activities that could be accommodated on the property is already adequately provided for in the area.

Section 30223

Upland areas necessary to support coastal recreational uses shall be reserved for such uses, where feasible.

In addition, the certified La Jolla Community Plan and Local Coastal Program Land Use Plan states the following:

The City should ensure that new development does not restrict or prevent lateral vertical or visual access (as identified in Figure 9 and Appendix G) to the beach on property that lies between the shoreline and first public roadway, or to and from recreational areas and designated public open space easements. Further, in areas where physical vertical access to the shoreline does not exist within 500 feet of a



002468

A-133-79-A2/F6760-A3

Page 16

private development project on the shoreline, consideration of a new accessway across private property should be analyzed. (p. 52)

Maintain, and where feasible, enhance and restore existing facilities including streets, public easements, stairways, pathways and parking areas to provide adequate public access to the shoreline. Detailed maps and specific subarea recommendations are provided in Appendix G. (p.57)

The project site is located between the ocean and the first public roadway (Princess Street/Spindrift Drive). The subject site is at the terminus of Princess Street in the La Jolla community of the City of San Diego. The site is a natural promontory overlooking the La Jolla underwater Park and Ecological Reserve and is bounded on the north and west by the ocean. The beach below the subject site (and to the south) is a small rock/cobble beach bounded by steep bluffs that is only accessible from surrounding beaches, and then only at very low tides and only from the north (the nearest public access point is adjacent to the Marine Room, approximately ¼ mile to the north). There is no formal access to this beach from the south due to the existence of steep coastal bluffs and rocky shorelines.

Relative to public access, the proposed amendment is to revise the terms and location of the previous required public vertical access easement. As described above in the "Detailed Project History" section, the Commission previously required recordation of an offer to dedicate (OTD) a public vertical access easement from the street to the beach as mitigation for impacts of a substantial home addition on a trail on the site that had historically been used by the public to access the beach in this location. While the OTD has never been recorded, in violation of the terms of the coastal development permit, due to the inaccessibility of the beach below the subject site; the need to provide access to the beach at this location is just as important today as it was when the Commission originally required it in 1979. This has ultimately resulted in litigation filed against the Commission by the property owner. As a means to resolve the litigation, the applicant has proposed the subject amendment.

The subject amendment is to immediately record an offer to dedicate a vertical access easement, but the offer defers to a later date (the year 2080) the requirement that public vertical access to the beach be provided on the subject site in exchange for widening the easement area from 5 feet to 20 feet, payment of \$200,000.00 towards another stairway across the bay that accesses the same beach from a public trail, construction of a public viewing area on a public right-of-way adjacent to the subject site and immediate recordation of an offer to dedicate lateral access along the beach and a vertical easement for emergency lifeguard access. To address this amendment, the Commission must decide if the proposed alternative measures are acceptable such that public access will not be diminished. In other words, do the proposed alternative measures provide the same level or greater public access than that previously required by the Commission in the original permit. Each of these components is addressed separately below.



**a. Lateral Public Access and Lifeguard Emergency Access.**

The first alternative measures proposed by the applicant are to record an offer to dedicate lateral public access on the beach and grant an easement to the City of San Diego for emergency lifeguard access across the site and down to the beach. While both these measures are good and do help facilitate and protect public access, these were both previously required by the Commission with the original permit. However, they, too, were never recorded and remain violations. Thus, the applicant's proposal to record these easements complies with the Commission's previous decision and as such, does not mitigate or provide an "offsetting benefit" for the proposed vertical access revisions.

**b. Public Viewing Area.**

Another alternative measure proposed by the applicant is to improve a small triangular piece of excess public right-of-way located adjacent to Princess Street and the subject site as a public viewing area. The proposed viewing area site is currently vegetated mostly with natal plum shrubs and includes a narrow series of small uneven steps that descend down a small slope from Sprindrift Drive to Princess Street. From this area, views of the ocean and La Jolla Bay are available over the existing home on the subject site and between the existing home and the home on the property to the south. Although the public can currently avail themselves of this view, this area is mostly inaccessible due to the slope and vegetation. The views from this location are identified as a major scenic viewshed in the certified Land Use Plan. As such, the applicant is proposing to improve this area by providing wider and more accessible steps down the slope, constructing a concrete viewing platform at the top of the slope with a couple of small benches, installation of public access signage, and landscaping the area with mostly low level landscaping (ref. Exhibit #3). With the proposed improvements, the public will better be able to take advantage of the significant views from this location. Therefore, the proposed public viewing area will result in a public benefit and, while not providing direct public access to the beach, does provide an enhanced viewing experience of the ocean.

**c. Payment of \$200,000 towards Alternative Access Stairway.**

Just down coast and across La Jolla Bay from the subject site is the Coast Walk public access (ref. Exhibit #1). Coast Walk is a dirt path that runs along the top of the coastal bluff overlooking La Jolla Bay and runs between Coast Walk Drive and Coast Boulevard. Spectacular views of the ocean, La Jolla Bay and the north San Diego coastline are available from this very popular public accessway. Prior to around 1962, there used to be public stairway, known as "Angel's Flight", leading down a steep gorge, known as the "Devil's Slide", from the Coast Walk path to the beach below (ref. Exhibit #8). Sometime around 1962, this historic stairway was destroyed by a fire and to date, has not been reconstructed. Today at this location, there is a "trail" leading down the bluff to the beach. However, it is very steep and only accessible to the most able bodied individuals willing to risk scrambling down the trail.



002470

The applicant is proposing with this amendment to provide \$200,000 towards feasibility investigations, design, consulting fees and construction costs to replace the Angel's Flight historic stairway, as mitigation for changing the terms of the location and date of availability of the public vertical access easement on the subject site.

From a public access standpoint, the applicant's proposal has merit. The beach accessed by the Angel's Flight stairway is the same beach that would be accessed by a stairway on the applicant's property, just a little further down coast. As noted earlier, currently, the only way to access this particular beach is to walk on the beach from the north at very low tides or by scrambling down the bluff at the old Angel's Flight location. Thus, providing another means of access to this beach is very important and one of the main reasons the Commission remains as concerned today regarding access as it did in 1979 when it first required the vertical access easement.

Another positive aspect of the applicant's proposal to help fund replacement of the Angel's Flight stairway is that the replacement stairway is located directly off the Coastwalk public path and will likely be more available and accessible to the public than a stairway on the subject site which would be located between two single-family residences. This is not to suggest that an accessway to the beach on the subject site is not important to improve public access, the proposed stairway at Coast Walk would simply likely get more use by the public due to the existing popularity of the Coast Walk path.

On the other hand, the applicant's proposal does not assure the Angel's Flight stairway will be replaced. The proposal is to provide a portion of the funding necessary to reconstruct the stairway. Commission staff has met with representatives from the City of San Diego Parks and Recreation Department as well as with representatives from the La Jolla Conservancy (a local non-profit organization) to discuss the replacement stairway. While no formal Memorandum of Understanding (MOU) has been drafted, both parties agreed the stairway reconstruction was a good idea. The La Jolla Conservancy expressed interest in being involved in facilitating the stairway reconstruction as well as locating additional funding to complete the project. The City agreed to provide a preliminary estimate and complete a feasibility study to see if the project is viable. Based on the City's very preliminary review, it is estimated the stairway reconstruction could cost close to 1.7 million dollars (\$1,700,000.00) and then would also need to be maintained. The applicant's proposal would contribute \$200,000 towards the project, of which \$50,000 is to be set aside for future maintenance. Thus, while the applicant will be providing a portion of the necessary money to reconstruct and maintain the Angel's Flight stairway, it falls well short of the funds necessary to assure its completion.

To partially address this concern, the applicant's proposal also includes that should it turn out that reconstruction of the stairway is infeasible or permits cannot be obtained or, for any other reason, the stairway cannot be reconstructed, all remaining monies (from the initial \$200,000) shall be paid to the State Coastal Conservancy Violation Remediation Account to be used for public access improvements in the La Jolla area.



002471

A-133-79-A2/F6760-A3

Page 19

Again, while replacement of this stairway is not currently on any City list of needed/necessary access improvements for La Jolla, given its previous historic status and the need for safe public access to this beach, there is a strong interest by the public to see this stairway replaced. With the City's support and the help of the La Jolla Conservancy and others, the Commission is optimistic that replacement of this stairway will not only be feasible, but that funding for its complete replacement can be obtained.

In addition, the applicant's proposal to expand the vertical access easement on the subject site from 5 feet to 20 feet will better facilitate the construction of a stairway on this site in the future when the access becomes available. Thus, allowing more people to utilize this access. Therefore, taken together, the Commission finds the applicant's revised access program is acceptable as the proposed alternative access is comparable to that previously required on the subject site and, access on the subject site still will occur; only it will be deferred to a future date.

To assure the applicant's proposed alternative measures are implemented, a number of special conditions are proposed. Special Condition Nos. 8 & 10 address the proposed lateral public access and the emergency lifeguard access. Special Condition #8 requires that prior to the issuance of this permit amendment, the applicant must execute and record an offer to dedicate to a public agency or private association, an easement for public lateral access on the beach that extends for the length of the property from the toe of the bluff to the mean high tide. Special Condition #10 requires that prior to issuance of the permit amendment, the applicant execute and record a document granting to the City of San Diego an easement for emergency lifeguard access that extends generally along the southern property boundary in a 5 ft. wide corridor from the street to the mean high tide line.

Special Condition #11 addresses the proposed public viewing area improvements. Because these improvements have only been approved in concept by the City of San Diego, this condition requires that prior to the issuance of the permit amendment, the applicant needs to submit final plans for the public viewing area that have been approved by the City of San Diego. The plans must be in substantial conformance with the plans submitted with this application, except that they need to be modified to include the public access signage. In addition, the preliminary landscape plan for the public viewing area includes both non-natives and invasive plant species (myoporum). Therefore, Special Condition #3b requires that final landscape plans be submitted, that have been approved by the City of San Diego, that include the use of primarily drought tolerant native plants, but in no case are invasive species permitted.

As currently proposed, several private improvements are to be located within the area of the revised 20 ft. access easement. These include a large built-in barbeque and other patio improvements. While at-grade improvements such as a patio are acceptable as they will not interfere with future access and are easily removed, the large barbeque and other more substantial patio improvements, fences, etc. are not. As such, Special Condition #1 requires the applicant to submit final revised plans documenting that, other than the



002472

proposed wall and gate, no other improvements that would interfere with access are permitted within the proposed 20 ft. easement area.

Special Condition #9 addresses the proposed revisions to the public vertical access easement. This condition requires that prior to the issuance of the permit amendment, the applicant must execute and record an offer to dedicate to a public agency or private association, an easement for public pedestrian access to the shoreline. As proposed by the applicant, the recorded document includes a number of restrictions, including that the easement, once accepted, shall not become available for public use until at least the year 2080. Other provisions include the location of the easement along the southernmost portion of the site, its width (20 ft.), allowance for revising the access gate in the future, and how and where public access improvements are to be constructed in the future.

Special Condition #15 addresses the mitigation payment proposed by the applicant. This condition requires that the Commission and an identified third party (the La Jolla Conservancy) enter into a Memorandum of Understanding (MOU) that addresses the disposition of the \$200,000. The condition details that the funds must be provided to the La Jolla Conservancy and placed in an interest bearing account and used towards feasibility investigations, design processing, professional consulting fees, permitting and construction costs to replace the Angel's Flight historic stairway as well as for future maintenance of the stairway, once constructed. The condition also includes that if it is determined that the Angle's Fight stairway reconstruction is infeasible, or permits cannot be obtained, or the stairway cannot be constructed due to lack of funding within 5 years, then all remaining money, including the \$50,000 put aside for future maintenance, will be placed in the state Coastal Conservancy's Violation Remediation Account for use for other access improvements in La Jolla.

In summary, the proposed amendment will result in changes to previously required public access provisions on a blufftop property in La Jolla. In exchange for delaying the opening of a public vertical access on the subject site until 2080, the applicant will provide lateral access on the beach, emergency lifeguard access down the bluff to the beach, improve a viewing area for the public to take advantage of the significant ocean views available from the subject site and pay \$200,000 towards reconstruction of a public access stairway down coast of the subject site (but still accessing the same beach). The Commission has reviewed the applicant's request to revise the location and terms of a public vertical access easement on the site and has determined that the proposed revised access program is acceptable as the proposed alternative access will be at least as good as that previously required, and public vertical access to the beach still will be provided on the subject site, only not opened for public use until 2080. Based on the above discussion, the Commission finds the proposed amendment, as conditioned, is consistent with the above cited access provisions of the Coastal Act and the City's certified LCP.

**4. Public Views.** In terms of protection of scenic quality and the visual resources of the subject site, the certified LCP and the La Jolla Community Plan contain numerous policies addressing the protection of public views to the ocean. Some of these include:



Public views from identified vantage points, to and from La Jolla's community landmarks and scenic vistas of the ocean, beach and bluff areas, hillsides and canyons shall be retained and enhanced for public use....

Public views to the ocean from the first public roadway adjacent to the ocean shall be preserved and enhanced, including visual access across private coastal properties at yards and setbacks....

Protect public views to and along the shoreline as well as to all designated open space areas and scenic resources from public vantage points...Design and site proposed development that may affect an existing or potential public view to be protected...in such a manner as to preserve, enhance or restore the designated public view....

Implement the regulation of the building envelope to preserve public views through the height, setback, landscaping and fence transparency regulation of the Land Development Code that limit the building profile and maximize view opportunities....

View corridors utilizing side yard setbacks, should be encouraged along shoreline and blufftop areas, in order to avoid a continuous wall effect. Even narrow corridors create visual interest and allow for sea breezes to refresh passersby....

- Setbacks and view corridors should be kept clear of trash receptacles, utility boxes, storage materials, untrimmed landscaping or any other obstructions which may interfere with visual access.

In addition, the certified Land Development Code contains similar provisions. Section 132.0403 of the Land Development Code states the following:

- (a) If there is an existing or potential public view and the site is designated in the applicable *land use plan* as a public view to be protected,
  - (1) The applicant shall design and site the *coastal development* in such a manner as to preserve, enhance or restore the designated public view, and
  - (2) The decision maker shall condition the project to ensure that critical public views to the ocean and shoreline are maintained or enhanced.
- (b) A visual corridor of not less than the side *yard* setbacks or more than 10 feet in width, and running the full depth of the *premises*, shall be preserved as a deed restriction as condition of Coastal Development permit approval whenever the following conditions exist [emphasis added]:
  - (1) The proposed *development* is located on *premises* that lies between the shoreline and the first public roadway, as designated on Map Drawing No. C-731; and



002474

A-133-79-A2/F6760-A3

Page 22

(2) The requirement for a visual corridor is feasible and will serve to preserve, enhance or restore public views of the ocean or shoreline identified in the applicable *land use plan*.

- (c) If there is an existing or potential public view between the ocean and the first public roadway, but the site is not designated in a land use plan as a view to be protected, it is intended that views to the ocean shall be preserved, enhanced or restored by deed restricting required side yard setback areas to cumulatively form functional view corridors and preventing a walled off effect from authorized development.

[...]

- (e) *Open fencing* and landscaping may be permitted within the view corridors and visual accessways, provided such improvements do not significantly obstruct public views of the ocean. Landscaping shall be planted and maintained to preserve public views.

In addition, the City's certified implementation plan defines open fencing as "a fence designed to permit public views that has at least 75 percent of its surface area open to light." The intent of the above-cited language in the certified LCP is to enhance or maintain any potential public views across a property between the first coastal road and sea.

The subject site is located at the northwest corner of Princess Street and Spindrift Drive in La Jolla on a coastal blufftop lot. The site is located within a major scenic viewshed, as identified in the certified Land Use Plan and between the first public road and the sea. The proposed amendment raises several issues with regard to protection of public views. First, the proposed fence/wall and gate at the entrance to the vertical access easement may impact public views from the public right-of-way as well as from the proposed viewing area. Second, the proposed mitigation for deferring vertical access at this time is to fund a stairway down the bluffs to the beach. The stairway on the bluff face could result in public view impacts.

Relative to the fence/wall and gate, as noted above, on properties located between the first public road and the sea and/or on properties that contain designated view sheds, the LCP requires that public views be protected by, among other things, requiring that the side yard setback area(s) be deed restricted to assure structures and landscaping do not interfere with public views. In the case of the subject site, public views of the ocean are available along the south side yard area from Princess Street as well as from the proposed viewing area adjacent to Princess Street. Special Condition #3 of the previous amendment requires the south yard area be restricted for purposes of ensuring public views in this location are maintained. There is an existing concrete stairway in the southern side yard so no plant materials can be placed in this location. However, beyond the stairway further south along the side yard, there is the potential for the planting of tall trees, etc. which could impede public views to the ocean. For this reason, the condition



requires the south yard area be maintained free of vegetation greater than 3 ft. in height, such that no trees or a tall hedge is planted, in order to preserve views of the ocean in this viewshed.

However, the fence/wall and gate proposed to be retained will affect public views along this view corridor and are not consistent with the provisions of the certified LCP cited above in that neither the wall nor the fence have been designed such that 75% of their surface area is open. The existing fence/wall and gate extend across the south side yard adjacent to Princess Street. As proposed, the gate is 92 inches tall and 48 inches wide and is constructed with a wood frame (approximately 6 inches wide on either side and approximately 9 inches wide on the top and bottom) with a wire mesh middle section. One side is attached to the home and other to a free standing solid stucco wall that is 92 inches tall and approximately 32 inches wide that extends beyond the property line onto the adjacent property to the south (ref. Exhibit #4 attached). Based on the plans submitted with this application, the proposed gate only retains approximately 50% of its surface area as open and the stucco wall is solid, with no open area. Thus, both the gate and the wall are inconsistent with the certified LCP.

The south side yard area is the only area on the property where public views are available to the ocean. Thus, maintaining these existing public views is important. To assure public views are maintained, Special Condition #3d requires that the fence/wall and gate be revised such that the upper 75% of the surface area of each is open and that no portion extends onto the adjacent property to the south. This condition also requires that revised plans first be approved by the City of San Diego. Because the fence/wall and gate are currently existing, Special Condition Nos. 13 and 14 require that the revised plans, approved by the City of San Diego, be submitted within 60 days of Commission action and that the fence/wall and gate be removed within 90 days of issuance of the amended permit.

With regard to the proposed public viewing area, significant public views are available from this area. Currently, although unimproved, ocean views are available over the existing home and between the existing home and the home to the south from the proposed public viewing area. As proposed, none of the features proposed to improve this viewing area will result in public view impediments; the viewing area includes only low level benches and landscaping. However, landscaping could over time grow such that it results in a view impediment. Therefore, Special Condition #3a requires that all landscaping be a species with a growth potential not expected to exceed three feet at maturity and that all landscaping be maintained at a height of no greater than three feet. With these conditions, the Commission can be assured public views will be maintained into the future.

The last issue raised by the subject amendment relates to the proposed mitigation for revising the vertical access. As noted in the project description, the applicant is proposing to defer the opening of a public access on the subject site by contributing \$200,000.00 towards feasibility studies, permitting and construction of a public access stairway across the bay from the subject site. While the construction of a public access



002476

A-133-79-A2/F6760-A3

Page 24

stairway down the face of a coastal bluff can result in public view impacts, in this particular case, the stairway will be located where a stairway previously existed, but was destroyed by fire many years ago. In addition, this amendment is not permitting that stairway; a separate coastal development permit will be required for that development as well as for any future stairway on the subject site and impacts on scenic visual resources will be addressed at that time.

In summary, there are existing public views of the ocean that will be affected by the subject development. The existing wall and gate proposed to be retained result in public view impacts and are inconsistent with the certified LCP. As conditioned to revise these structures and to assure all landscaping in the south side yard setback area and within the proposed public viewing area are low level, not to exceed three feet in height, public views will be protected, consistent with the above-cited provisions of the certified LCP.

**5. Unpermitted Development.** Unpermitted development has been carried out on the subject site without the required coastal development permit. The applicant is requesting after-the-fact authorization for the installation and retention of a wall/fence and gate at the entrance to the vertical access easement. In addition, there are a number of other unpermitted improvements that have been constructed on the site (some that are still under investigation) that are not addressed by this amendment, but will be handled as a separate enforcement action. These include, but are not limited to, landscaping and irrigation on the bluff face, remodel that increased living area and square footage of the home, remodel of a detached historic structure, additional driveway encroachment into public right-of-way, construction of a large wall in the public right-of-way, construction of a second-story patio terrace and grading and recontouring of the bluff face. Additionally, the failure to record the required lateral and vertical offer to dedicate public access easements pursuant to Coastal Development Permit No. A-133-79-A1 is a violation of the California Coastal Act.

To ensure that the matter of unpermitted development is resolved in a timely manner, Special Condition #13 requires that the applicant satisfy all conditions of this permit amendment which are prerequisite to the issuance of this permit amendment within 60 days of Commission action, or within such additional time as the Executive Director may grant for good cause. In addition, because the fence/wall and gate proposed to be retained have already been constructed and through this amendment are required to be revised, Special Condition #14 requires that within 90 days of issuance of the permit amendment, the applicant shall remove the existing wall and gate and replace them consistent with the plans approved pursuant to Special Condition #3 of this permit amendment.

Although development has taken place prior to the submission of this amendment request, consideration of the request by the Commission has been based solely upon the certified City of San Diego LCP and the public access and recreation policies of the Coastal Act. Commission action upon the permit amendment does not constitute a waiver of any legal action with regard to the alleged violations of the Coastal Act that



may have occurred; nor does it constitute an admission as to the legality of any development undertaken on the subject site without a coastal development permit.

**6. Local Coastal Planning.** The subject site is zoned RS-1-7 and is designated for residential use in the certified La Jolla Land Use Plan. The proposed project is consistent with that zone and designation. The subject site consists of a sensitive coastal bluff as identified in the City's certified LCP. The Environmentally Sensitive Lands (ESL overlay) regulations of the City's implementation plan are thus applicable to the subject site. The proposed improvements, as conditioned, are consistent with the ESL overlay.

The certified La Jolla Community Plan and Local Coastal Program Land Use Plan contain policies that address shoreline protective devices, protection and improvement of existing visual access to the shoreline, and policies stating that ocean views should be maintained in future development and redevelopment. In addition, the certified LUP requires that structures be set back adequately from the coastal bluff to protect the geologic integrity and visual resources of the coastal bluffs and shoreline areas. As conditioned, the proposed development is consistent with the shoreline hazards provisions and all other relevant provisions of the certified LUP. It is also consistent with the public access and recreation policies of the Coastal Act. Therefore, the proposed development, as conditioned, is consistent with the certified LCP and the relevant policies of the Coastal Act and can be approved.

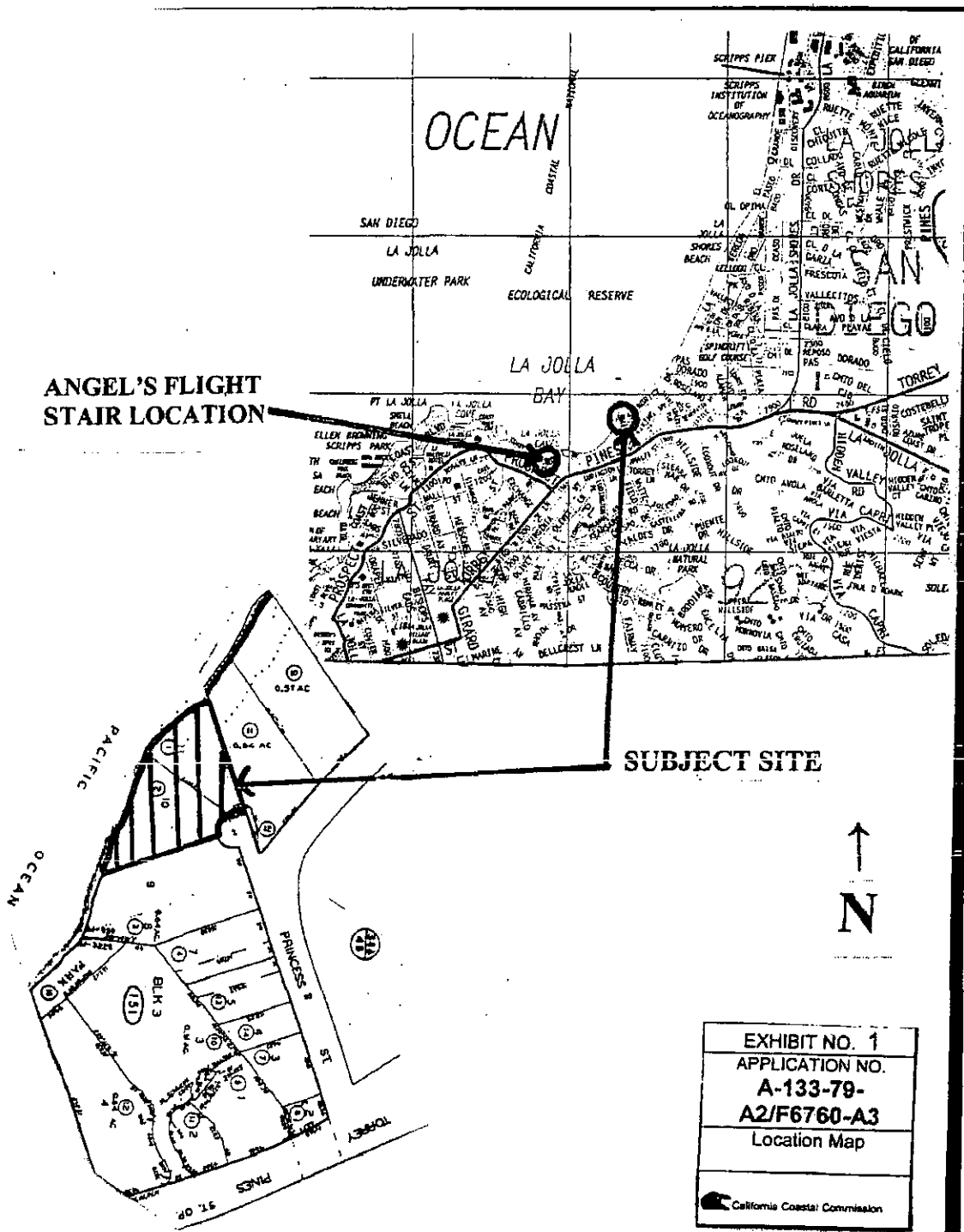
**7. Consistency with the California Environmental Quality Act (CEQA).**

Section 13096 of the Commission's Code of Regulations requires Commission approval of Coastal Development Permits to be supported by a finding showing the permit, as conditioned, to be consistent with any applicable requirements of the California Environmental Quality Act (CEQA). Section 21080.5(d)(2)(A) of CEQA prohibits a proposed development from being approved if there are feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse effect which the activity may have on the environment.

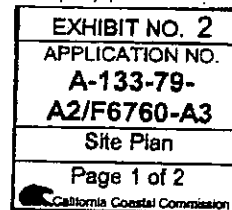
The proposed project has been conditioned in order to be found consistent with the certified LCP and the public access and recreation policies of the Coastal Act. Mitigation measures, including conditions addressing final plans (adequate blufftop setbacks/ location of offer to dedicate access easement/accessory improvements), revised landscape/yard area fence plans to assure protection of public views and recordation of various easements will minimize all adverse environmental impacts. As conditioned, there are no feasible alternatives or feasible mitigation measures available which would substantially lessen any significant adverse impact which the activity may have on the environment. Therefore, the Commission finds that the proposed project is the least environmentally-damaging feasible alternative and is consistent with the requirements of the Coastal Act to conform to CEQA.



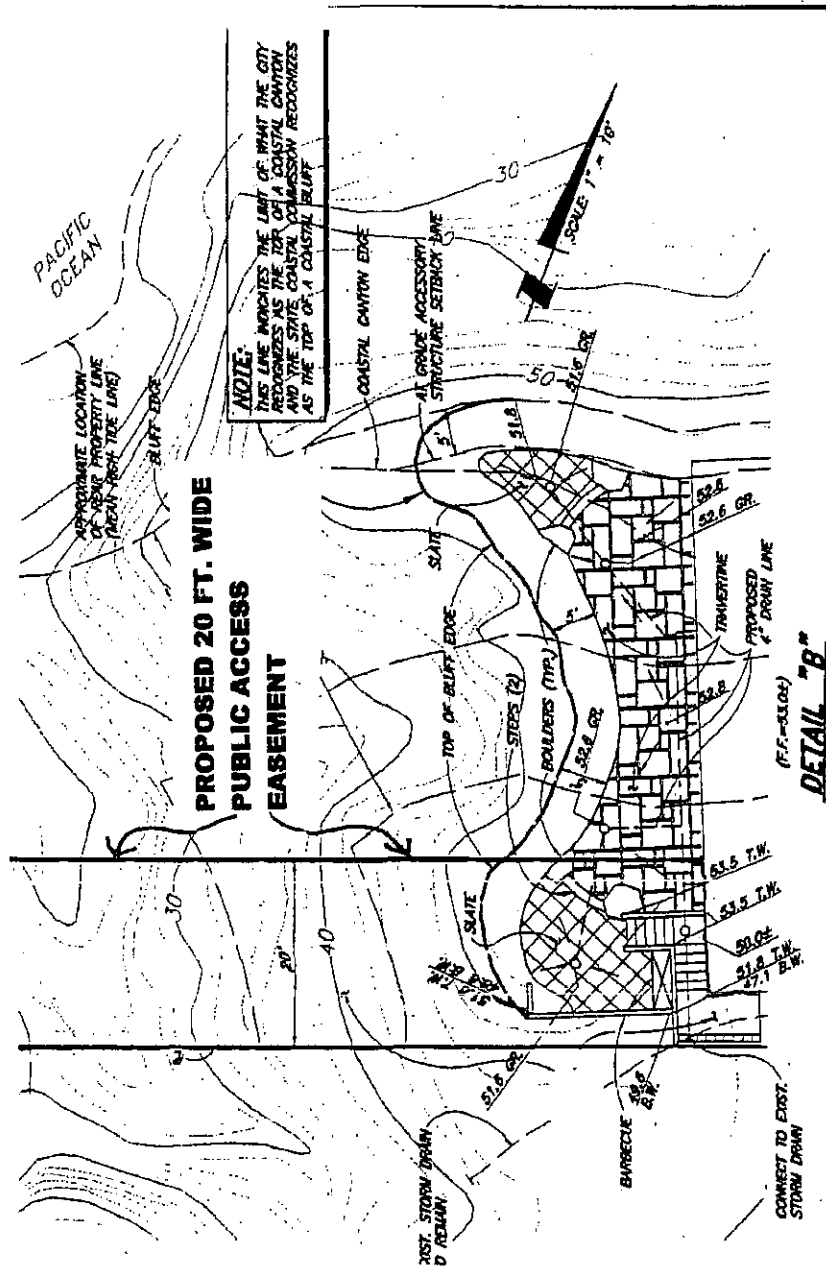
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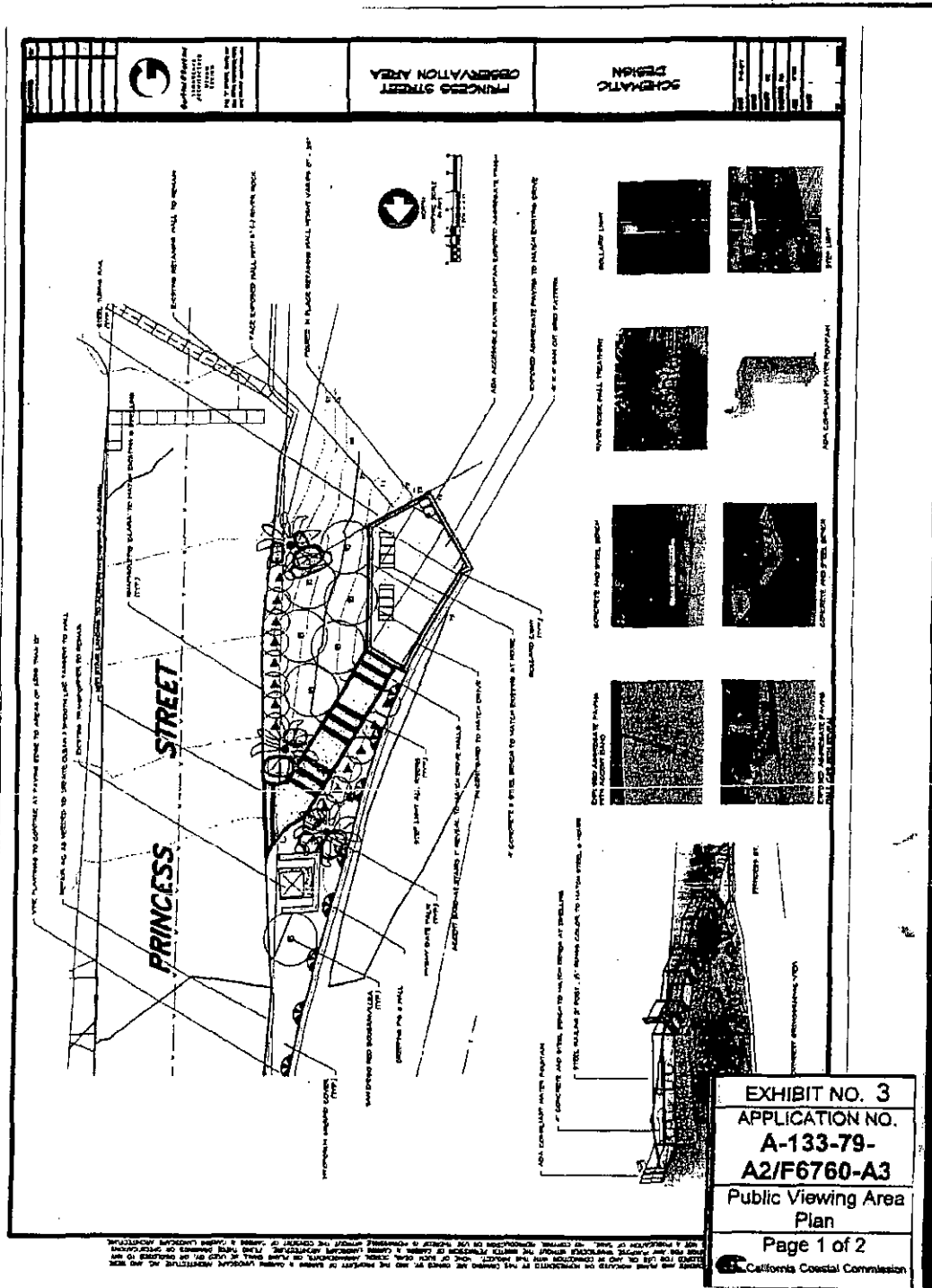






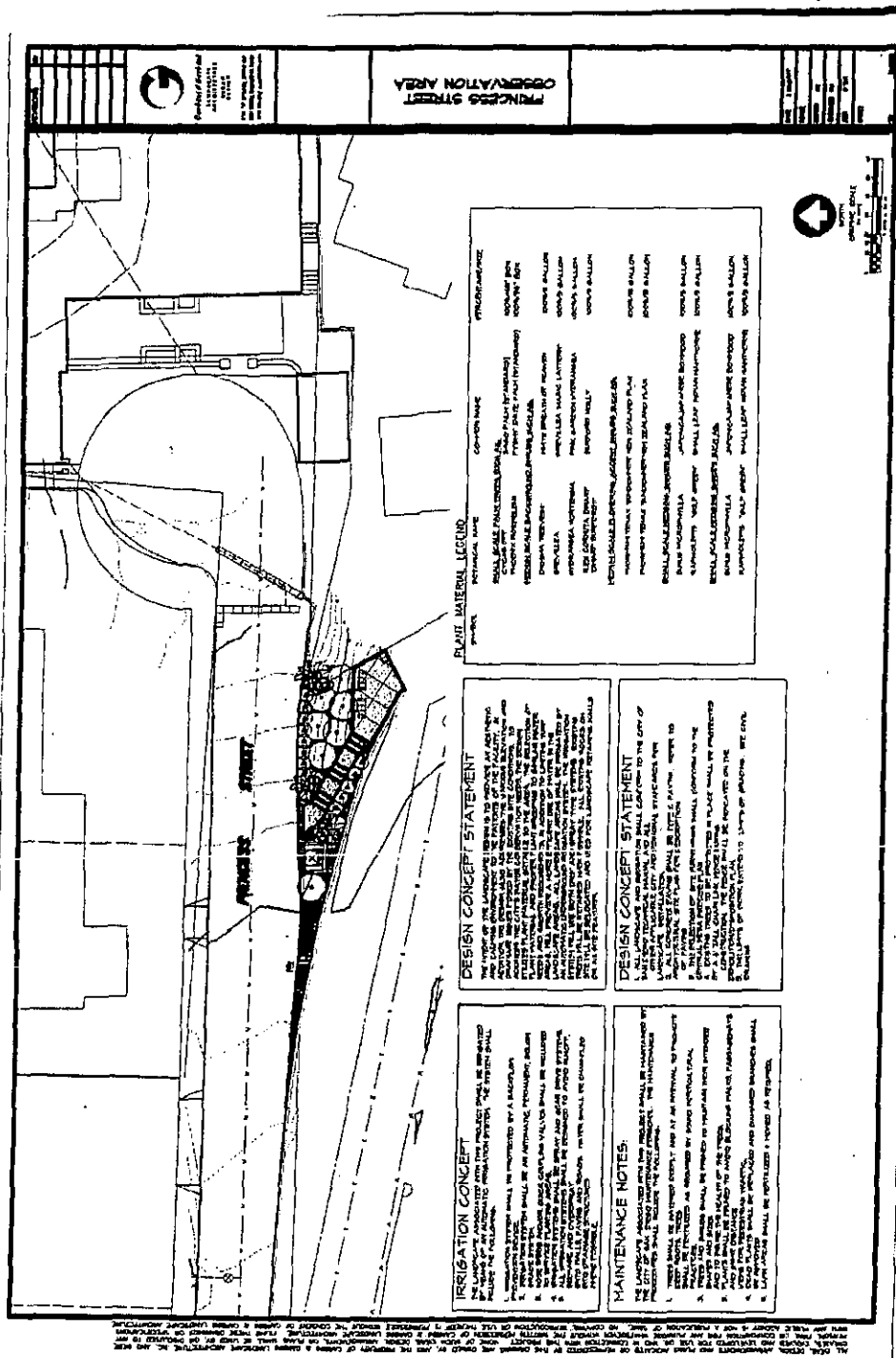








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A-133-79-A2/F6760-A3

Page 31

ATTACHMENT 12

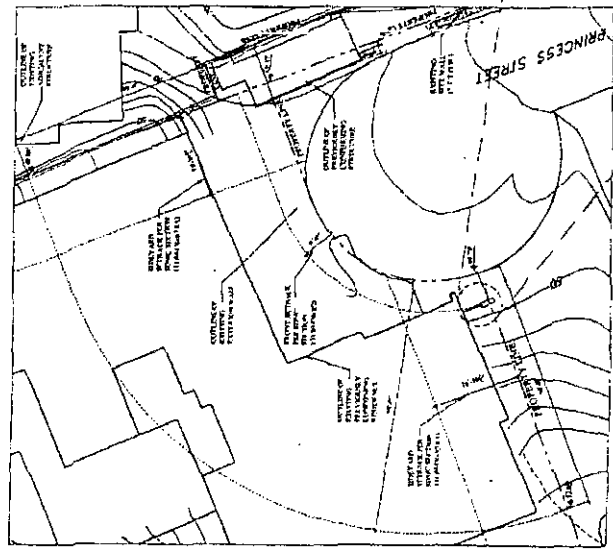
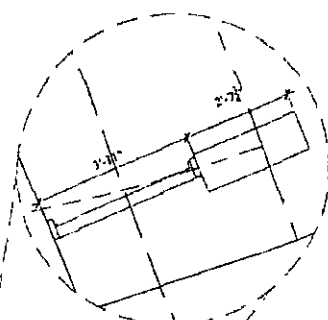
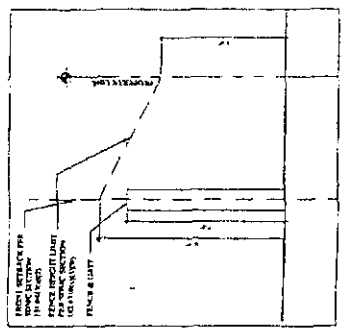
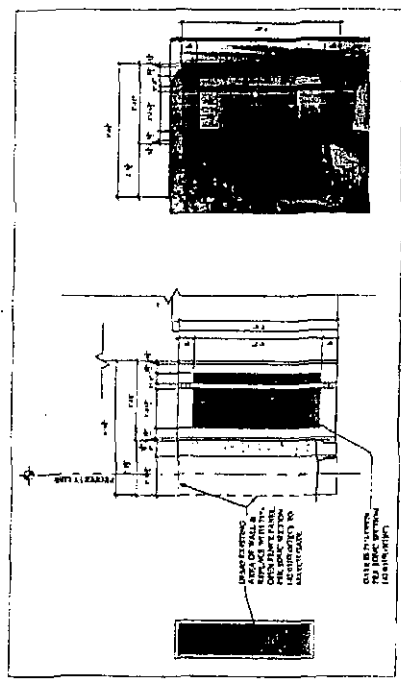


**Martino Architects**  
7033 Jamboree Ave.  
Suite 110  
La Brea, CA 90033  
Tel: (310) 404-1188  
Fax: (310) 404-1189  
www.martinoarchitects.com



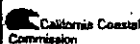
**KRETOWICZ RESIDENCE**  
BARRA SITE WALL  
LA BREA, CA 90033  
LA 90033-1100

**A-1.2**  
WALL & GATE PLAN  
SCALE: 1" = 1'-0"

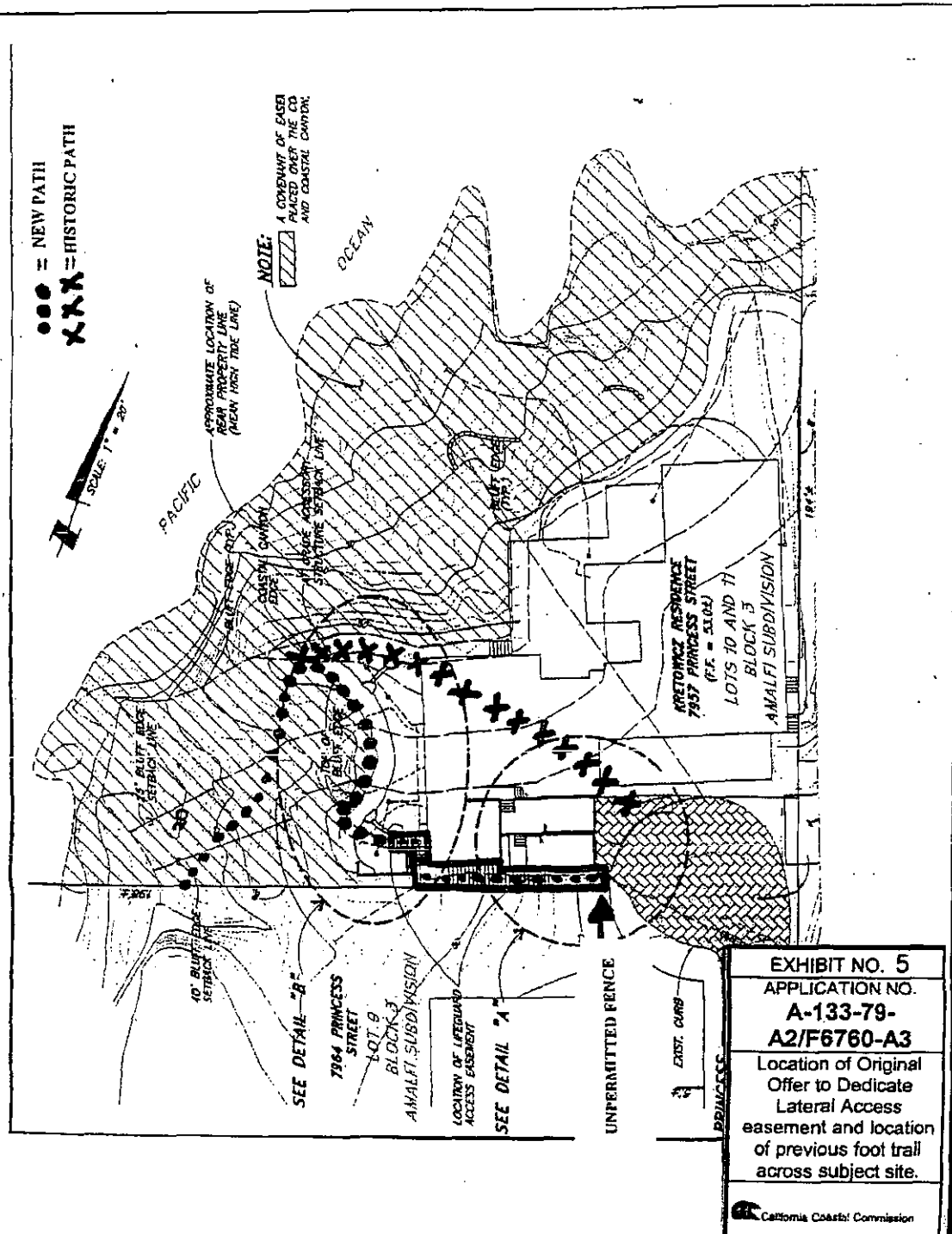


SLOPE GRADIENT CALCULATION  
SLOPE GRADIENT AT SOUTHWEST PROPERTY LINE  
SLOPE = 10.7% - 12.2% - 11.0% - 24.7%  
SLOPE = 10.7% - 12.2% - 11.0% - 24.7%  
SLOPE = 10.7% - 12.2% - 11.0% - 24.7%

**EXHIBIT NO. 4**  
**APPLICATION NO.**  
**A-133-79-**  
**A2/F6760-A3**  
**Wall & Gate Plan**

 California Coastal Commission







5		
6		
7		
8	SUPERIOR COURT OF THE STATE OF CALIFORNIA	
9	FOR THE COUNTY OF SAN DIEGO	
10		
11	DIANNE KRETOWICZ AND URE	Case No. GIC 851915
12	KRETOWICZ, as Trustees of the Princess	
13	Trust,	
14	Petitioners/Plaintiffs,	STIPULATION FOR ENTRY OF
15	v.	JUDGMENT
16	CALIFORNIA COASTAL COMMISSION,	Dept.: 74
17	an agency of the State of California and DOES	The Hon. Linda B. Quinn
18	1 through 100, inclusive,	Complaint Filed: August 5, 2005
19	Respondents/Defendants.	
20	CALIFORNIA COASTAL COMMISSION,	
21	An agency of the State of California,	
22	Cross-Complainant,	
23	v.	
24	DIANNE KRETOWICZ AND URE	
25	KRETOWICZ, as Trustees of the Princess	
26	Trust, and DOES 1 through 100, inclusive,	
27	Cross-Defendants.	
28	IT IS HEREBY STIPULATED AND AGREED BY AND AMONG THE PARTIES:	
	This Stipulation for Entry of Judgment ("Stipulation") is a settlement of the above	
	captioned petition for writ of mandate and complaint ("petition/complaint") and related cross	
	1	
	STIPULATION FOR ENTRY OF JUDGMENT	

EXHIBIT NO. 6
APPLICATION NO.
A-133-79-
A2/F6760-A3
Stipulation for Entry of
Judgment (Settlement
Agreement)
Page 1 of 15
California Coastal Commission



1 complaint. This Stipulation is made and effective as of \_\_\_\_\_, 2007, by and among  
2 Dianne Kretowicz and Ure Kretowicz, as Trustees of The Princess Trust (collectively  
3 "Kretowicz") and the California Coastal Commission, an agency of the State of California (the  
4 "Commission"), with reference to the facts set forth herein.

5 RECITALS

6 A. Kretowicz filed an action in the Superior Court of California, County of San Diego,  
7 SDSC Case No. GIC 851915 (the "Kretowicz Action") against the Commission in connection  
8 with the Commission's claimed right to an easement for public access over residential property  
9 owned and occupied by Kretowicz, located at 7957 Princess Street, in the community of La Jolla,  
10 City of San Diego, California ("Property"). The Commission filed a Cross-Complaint to the  
11 Kretowicz Action alleging, among other things, violations of the Coastal Act ("Commission  
12 Cross-Complaint").

13 B. On September 20, 1979, the State Commission took action to approve coastal  
14 development permit A-133-79 ("Permit A-133-79") for the Property. The Commission asserts  
15 that as a condition to that approval it required a previous owner of the Property to offer lateral and  
16 vertical public access easements across the Property. No offer to dedicate easements over the  
17 Property pursuant to Permit A-133-79 were ever recorded.

18 C. On July 22, 2004, Kretowicz submitted an application to the Commission to  
19 modify a retaining wall and an existing garage and to install a barbeque, patio, landscaping and  
20 related improvements on the Property and to remove certain wooden timber stairs, palm trees and  
21 portions of a retaining wall ("Kretowicz Permit Application"). The Commission required  
22 Kretowicz to offer to dedicate public access easements over the Property pursuant to Permit A-  
23 133-79 as a condition of approval of the Kretowicz Permit Application.

24 D. The parties dispute the Commission's authority to require an offer to dedicate any  
25 easement over the Property pursuant to Permit A-133-79.

26 E. The parties to this Stipulation now desire to settle and resolve their differences  
27 relating to the Property.

28 ///



1 NOW, THEREFORE, in consideration of the mutual covenants set forth below, the parties  
2 agree as follows:

3 AGREEMENT

4 1. Incorporation of Recitals. Recitals A through E, inclusive, are incorporated herein by this  
5 reference and acknowledged by all parties hereto as accurate.

6 2. New Kretowicz Permit Amendment Application. Within 90 days after the execution of  
7 this Stipulation, Kretowicz shall submit a new coastal development permit amendment application  
8 ("Amendment Application") seeking approval for a.) a change in the location and terms of the  
9 offer to dedicate vertical public access identified in Permit A-133-79 consistent with the terms of  
10 this Stipulation, b.) the unpermitted gate and fence across the area of the offer to dedicate vertical  
11 public access and c.) improvement of the triangular piece of City-owned property as described in  
12 Paragraph 4 of this Stipulation. The Amendment Application shall propose the payment as  
13 described in Paragraph 5 (for construction of Angel's Flight improvements) as mitigation for the  
14 change in the offer to dedicate vertical public access. If the Commission approves the  
15 Amendment Application, Kretowicz shall comply with all terms and conditions of the permit  
16 amendment within the deadlines set forth in the conditions. Kretowicz shall also comply with all  
17 terms and conditions of approval of the Kretowicz Permit Application previously approved in part  
18 by the Commission. If the Commission denies the Amendment Application or if the Commission  
19 receives written notice from Kretowicz within twenty (20) days after final Commission action on  
20 the Amendment Application stating that Kretowicz does not accept the Commission's action, this  
21 Stipulation shall be null and void. If the Commission approves the Amendment Application,  
22 within thirty (30) days of the Commission's approval, this Stipulation shall be filed with the Court  
23 along with a proposed Judgment Pursuant to Stipulation with a request that judgment be entered in  
24 accordance with this Stipulation.

25 2.1 Ancillary Improvements. In addition to those items contained in the Amendment  
26 Application as described in Section 2, above, Kretowicz may, at Kretowicz's discretion, include  
27 within the Amendment Application: a) the removal of a newly installed, unpermitted wall  
28 approximately six to eight feet in height (the "Wall"), and/or b) architectural concrete installed by



1 Kretowicz in the public right-of-way at the end of Princess Street pursuant to City of San Diego  
2 Encroachment Maintenance and Removal Agreement recorded February 21, 2006 (P.T.S.  
3 Approval No. 298442, referred to as the "Concrete Improvements"). The Wall and Concrete  
4 Improvements collectively shall be referred to as the "Ancillary Improvements". In the event  
5 Kretowicz chooses to include one or more of the Ancillary Improvements in the Amendment  
6 Application, the Commission's denial of the Ancillary Improvement(s) shall not render this  
7 Stipulation null and void. In the event Kretowicz does not include the Ancillary Improvement(s)  
8 in the Amendment Application, nor in any subsequent coastal development permit application  
9 within ninety (90) days following the date of Commission's decision to approve or deny the  
10 Amendment Application, and Kretowicz has not given Commission staff written notice of  
11 intention to remove the Ancillary Improvement(s), the Commission may pursue enforcement  
12 proceedings with regard to the Ancillary Improvement(s) as may be authorized by applicable law.  
13 By entering into this Agreement the Parties do not waive, and hereby expressly retain, all rights,  
14 defenses and remedies in connection with the Ancillary Improvements. Moreover, by entering  
15 into this Agreement Kretowicz does not admit or concede that the Ancillary Improvement(s) are  
16 unlawful or that the Commission has jurisdiction over the Ancillary Improvements. Any future  
17 dispute between the Parties with regard to the Ancillary Improvements shall be addressed in legal  
18 proceedings separate from the Kretowicz Action and Commission Cross-Complaint, in which case  
19 Section 6 of this Agreement shall not apply.

20 3. Grant of Easements. If the Commission approves the Amendment Application, Kretowicz  
21 will record an easement deed in favor of the City of San Diego for emergency lifeguard access as  
22 described in paragraph 3.1 of this Stipulation, and Kretowicz shall also record, for the benefit of  
23 the People of the State of California, an irrevocable offer to dedicate non-exclusive easements for  
24 lateral and vertical public access along the southern boundary of the Property from Princess Street  
25 to the mean high tide line and lateral public access from the toe of the bluff to the mean high tide  
26 line ("Access Easements") in a form mutually acceptable to the parties, as described in Paragraphs  
27 3.2 and 3.3 of this Stipulation. The Access Easements shall consist of the following:  
28 ///



002489

1           3.1   Emergency Lifeguard Access. Kretowicz will grant the City of San Diego ("City")  
2 an easement for emergency lifeguard access and no other purpose ("Lifeguard Easement"). The  
3 grant of easement shall be recorded no later than sixty (60) days after the Commission's approval  
4 of the Amendment Application. The Lifeguard Easement shall be effective upon acceptance by  
5 the City and recordation in the Official Records of the County of San Diego.

6           3.2   Lateral Public Access. Kretowicz will record an offer to dedicate an easement for  
7 lateral general public access ("Lateral Public Easement"), in a form and content acceptable to the  
8 Commission's Executive Director, which shall include the following terms and conditions: The  
9 Lateral Public Easement shall extend from the mean high tide line to the toe of the bluff. A draft  
10 of the offer to dedicate lateral public access, prepared using a Commission approved form, shall be  
11 submitted to Commission staff within thirty (30) days after approval of the Amendment  
12 Application. The offer to dedicate lateral public access shall be recorded within thirty (30) days  
13 after the Commission staff approves of the draft document.

14           3.3   Vertical Public Access: Kretowicz shall record an offer to dedicate an easement for  
15 vertical general public access ("Vertical Public Easement") in a form and content acceptable to the  
16 Commission's Executive Director which shall include the following terms and conditions: The  
17 Vertical Public Easement shall become available for public use or any other purpose no earlier  
18 than December 31, 2080, and then only when a public agency or non-profit organization accepts  
19 the Vertical Public Easement ("Easement Holder"). The Easement Holder may replace or modify  
20 the gate and fence across the Vertical Public Easement when available for public use. The  
21 Easement Holder shall have the right to construct a stairway down the bluff leading to the ocean  
22 pursuant to all required government approvals. The owner of the property shall have the right to  
23 construct open fencing consistent with the City of San Diego's standards along the boundary of  
24 the Vertical Public Easement to separate the easement area from the residential area of the  
25 property, provided that such open fencing does not block or impede the public's use of the  
26 Vertical Public Easement or views therefrom. The width of the Vertical Public Easement shall be  
27 at least 20 feet wide, except that between the street and along the house up to the western limit of  
28 the house, the Vertical Public Easement shall extend from the southern edge of the house to the



002490

1 southern boundary of the property. Although the Vertical Public Easement extends to twenty (20)  
2 feet wide, the area of public use for access to the ocean shall be no wider than ten (10) feet. The  
3 Easement Holder shall have the authority to determine where the ten (10) foot wide public access  
4 area will be located within the twenty (20) foot wide easement area, provided that the public  
5 access shall be located as close to the southern property boundary as feasible. The entire easement  
6 area shall be available for siting a footpath or stairway (or both should a foot path be used in lieu  
7 of or prior to construction of a stairway) and for construction activities related to a footpath and/or  
8 stairway, but once a footpath has been identified and/or a stairway built, public access shall not  
9 occur outside of the footpath or stairway except as necessary for repair and maintenance or except  
10 as necessary to move the access area because of erosion or other geologic factors affecting the  
11 safety of the access. If the Easement Holder decides to construct a stairway, the Easement Holder  
12 shall consult with the Property owner with respect to design of the stairway. A stairway shall not  
13 require the property owner to remove the drainpipe outfall that currently exists at the base of the  
14 bluff. Once opened by the Easement Holder, the Vertical Public Easement shall be open daily,  
15 from one half hour before sunrise to one half hour after sunset. The Easement Holder shall be  
16 responsible for maintenance, trash collection and acceptance of liability. With the assistance of  
17 Commission staff, Kretowicz shall submit a draft offer to dedicate the Vertical Public Easement  
18 for review and approval of the Commission's Executive Director within forty-five (45) days after  
19 Commission approval of the Amendment Application. Kretowicz shall record the offer to  
20 dedicate within thirty (30) days after approval of the draft documents by the Commission staff.

21 4. Viewing Area Improvements. Kretowicz shall improve a triangular piece of City-owned  
22 property located across Princess Street, as generally depicted on Exhibit "A attached hereto, to  
23 provide at a minimum a public bench, sidewalk, public access signs and if economically and  
24 physically feasible, a drinking fountain (collectively, "Viewing Area Improvements"). Kretowicz  
25 shall be responsible for obtaining all discretionary approvals required from the City of San Diego  
26 to construct the Viewing Area Improvements prior to issuance of the approved Amendment  
27 Application. Kretowicz will present a conceptual design of the Viewing Area Improvements to  
28 Commission staff for concurrence before submitting the same for City review and approval. The



002431

1 financial obligation of Kretowicz for the design, processing, professional consulting fees and  
2 construction costs of the Viewing Area Improvements shall not exceed \$50,000.00 and Kretowicz  
3 shall plan a project that does not exceed \$50,000.00. In the event the City refuses to issue the  
4 permits and approvals required to develop the Viewing Area Improvements, or if the Viewing  
5 Area Improvements are completed for less than \$50,000.00, Kretowicz shall pay all remaining  
6 amounts in accordance with Paragraph 5 (e.g., toward construction of the Angel's Flight  
7 improvements).

8 5. Angel's Flight Improvements. An historic staircase known as "Angel's Flight" connecting  
9 Coast Walk to the shoreline below was destroyed by fire in approximately 1960. Upon the  
10 issuance of the approved Amendment Application, Kretowicz agrees to contribute an amount not  
11 to exceed \$200,000.00 ("Coastal Access Fund") towards feasibility investigations, design,  
12 processing, professional consulting fees and construction costs to replace Angel's Flight on the  
13 following terms and conditions:

14 5.1 Kretowicz will not be the applicant or otherwise be responsible for processing  
15 permits, applications or approvals necessary to replace Angel's Flight. Instead, the Commission  
16 shall select a third party, such as the City of San Diego or the La Jolla Conservancy, to explore the  
17 feasibility of, and to replace if feasible, Angel's Flight. The Commission and the third party will  
18 enter into a Memorandum of Understanding (MOU) outlining the process for exploring the  
19 feasibility and constructing Angel's Flight if feasible. The MOU shall provide that the third party  
20 will take all steps necessary to achieve replacement of Angel's Flight. The MOU will also provide  
21 that \$200,000.00 will be paid to the third party for purposes of feasibility investigations, design,  
22 processing, professional consulting fees and construction costs to replace Angel's Flight.  
23 Additionally, the MOU will provide that \$50,000.00 of the \$200,000.00 will be set aside in an  
24 interest bearing account to be used solely for periodic maintenance of the stairs after construction.  
25 If the third party determines that replacement is infeasible or fails to obtain permits or fails to  
26 build the Angel's Flight stairs because of lack of funding, within specified deadlines, any  
27 remaining amount of the monies that had been forwarded to the third party pursuant to the MOU  
28 will be paid to the State Coastal Conservancy Violation Remediation Account. Within thirty (30)



1 days after the MOU has been signed by the Commission and the third party, but in no event prior  
2 to the issuance of the approved Amendment Application, Kretowicz shall deposit \$200,000.00 into  
3 an account held by the third party for use in accordance with the terms of the MOU.

4 5.2 Contribution of the funds by Kretowicz shall constitute complete satisfaction of its  
5 obligations under Section 5 of this Stipulation.

6 6. Violation of Terms of Judgment Pursuant to Stipulation. Should Kretowicz violate any  
7 term set by the Judgment, Kretowicz shall be liable for a penalty in the amount of two hundred  
8 fifty dollars (\$250.00) for each day Kretowicz is in violation. Before any such penalty is imposed,  
9 the Commission shall give Kretowicz thirty (30) days written notice (by certified mail, return  
10 receipt requested) of the Commission's intent to enforce this penalty provision. If at the end of  
11 such thirty (30) days Kretowicz is still in violation of the Judgment, the Commission may enforce  
12 this penalty provision for the entire period of non-compliance and regardless of whether  
13 Kretowicz has subsequently complied. Kretowicz shall pay the Commission such penalty within  
14 twenty (20) days of receipt of the Commission's written notice (by certified mail, return receipt  
15 requested) to enforce this penalty provision. Payment of the penalty shall be computed from the  
16 first day in which Kretowicz violated the Judgment. Payment of such penalty shall not relieve  
17 Kretowicz of his duties under the judgment. Kretowicz may seek an extension of any deadline in  
18 this paragraph and the Commission's Executive Director may grant the extension for good cause,  
19 in which case Kretowicz would not be liable for a penalty during that extension.

20 7. Commission Access to Site. Upon reasonable advance notice by Commission staff,  
21 Kretowicz agrees to provide access to the subject property at reasonable times to Commission  
22 staff. Nothing in the Judgment is intended to limit in any way the right of entry or inspection that  
23 any agency may otherwise have by operation of law. Commission staff may enter and move  
24 freely about the portions of the property on which the development which is the subject of this  
25 stipulated judgment is located, and on adjacent areas of the property to view the areas where the  
26 development is being performed pursuant to the requirements of the Judgment for purposes  
27 including but limited to inspecting records, operating logs, and contracts relating to the site and

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002493

1 overseeing, inspecting and reviewing the progress of Kretowicz in carrying out the terms of the  
2 Judgment.

3 8. Mutual Release. The parties hereto intend and agree that this Agreement shall be effective  
4 as a full and final accord in satisfaction and general release of and from all claims, rights or causes  
5 of action arising out of or related to the Kretowicz Action and the Commission Cross-Complaint  
6 ("Released Matters"). In furtherance thereof, the parties acknowledge that they are familiar with  
7 Section 1542 of the Civil Code of the State of California which provides as follows:

8 "A general release does not extend to claims which the creditor  
9 does not know or expect to exist in his favor at the time of  
10 executing the release, which if known by him must have materially  
11 affected his settlement with the debtor."

12 The parties expressly waive and release any and all rights or benefits which they have or  
13 may have with respect to the Released Matters under Section 1542 of the Civil Code of the State  
14 of California, any successor statute or any similar law or rule of any other jurisdiction. In  
15 connection with such waiver and relinquishment, the parties acknowledge that they are aware that  
16 claims or facts in addition to, or different from, those which they presently know or believe to  
17 exist may be discovered and that the release herein given shall be and remain in effect as a full and  
18 complete release notwithstanding the discovery of the existence of any additional common, new or  
19 different claims or facts. However, nothing in this Stipulation constitutes a waiver of the  
20 Commission's authority to enforce violations of the Coastal Act that are not addressed in the  
21 Amendment Application.

21 9. Miscellaneous

22 9.1 No Waiver of Rights. Nothing in this Agreement shall be construed as a waiver of  
23 the Commission's duties pursuant to applicable law with regard to the Property. This Agreement  
24 does not in any way compromise, limit, control or direct the discretionary authority of the  
25 Commission with regard to pending or future permit applications.

26 9.2 No Admission of Liability. Nothing in this Agreement shall be construed as an  
27 admission by any party of any liability or wrongdoing in connection with the Kretowicz Action,  
28 the Commission Cross-Complaint or the Property.



002494

A-133-79-A2/F6760-A3  
Page 42

1           9.3 Court's Retention of Jurisdiction. The Court retains jurisdiction over this matter  
2 for the purpose of enabling either party to apply to the Court for any further orders or directions as  
3 may be necessary and appropriate for the Judgment's construction, execution, modification, and  
4 enforcement.

5           9.4 Waiver of Appeal. The parties waive any statement of decision and all rights of  
6 appeal from the Judgment.

7           9.5 Counterparts. This Agreement may be executed in counterparts, all of which, when  
8 taken together, shall constitute a fully executed original.

9           9.6 Entire Agreement. This Agreement constitutes the final and exclusive settlement  
10 agreement between the parties hereto and all prior and contemporaneous agreements,  
11 representations, negotiations and understandings of the Parties hereto, oral or written, are hereby  
12 superseded and merged herein.

13           9.7 Cooperation. Each party agrees to cooperate and to perform such further acts and  
14 to execute and deliver any and all further documents that may be reasonably necessary to  
15 effectuate the express purposes of this Agreement.

16           9.8 Modification. No modification, waiver, amendment, discharge or change of this  
17 Agreement shall be valid unless the same is in writing and signed by the parties.

18           9.9 Construction. This Agreement was not drafted by any one party and shall not be  
19 construed or interpreted against any one party.

20           9.10 Severability. If any provision or other portion of this Agreement shall become  
21 illegal, null or void or against public policy, for any reason, or shall be held by any court of  
22 competent jurisdiction to be illegal, null or void or against public policy, the remaining portions of  
23 this Agreement shall not be affected thereby and shall remain in force and effect to the fullest  
24 extent permissible by law.

25           9.11 Successors and Assigns. Each and all covenants and conditions of this Agreement  
26 shall inure to the benefit of, and shall be binding upon, the successors in interest, assigns, and legal  
27 representatives of the parties hereto.

28     ///



002495

1        9.12 Governing Law. The parties hereby agree that this Agreement shall be governed  
2 by, and construed and enforced in accordance with, the laws of the State of California. In mutual  
3 recognition of the fact that this Agreement is to be performed in San Diego County, California, the  
4 Parties agree that in the event that any civil action is commenced regarding this Agreement, San  
5 Diego County, California, is the proper county for the commencement and trial of such action.

6        9.13 Advice of Counsel. The parties, and each of them, represent and declare that in  
7 executing this Agreement they have relied solely upon their own judgment, belief and knowledge,  
8 and the advice and recommendation of their own independently selected counsel, concerning the  
9 nature, extent, and duration of their rights and claims, and that they have not been influenced to  
10 any extent whatsoever in executing the same by any representations or statements covering any  
11 matters made by the other parties hereto or any other person.

12        9.14 Notice. Any notice to be given or other document to be delivered by any party to  
13 another party under this Agreement may be deposited in the United States mail in the State of  
14 California, duly certified or registered, return receipt requested, with postage prepaid, or by  
15 Federal Express or other similar overnight delivery service, or by facsimile addressed to the party  
16 for whom intended as follows:

17  
18 To Kretowicz:                      Dianne and Ure Kretowicz, Trustees of The Princess Trust  
19    4365 Executive Dr., Suite 600  
20    San Diego, CA 92121  
    Facsimile: (858) 452-3600  
    Telephone: (858) 458-9700

21 With a copy to:                      Lucc, Forward, Hamilton & Scripps LLP  
22    600 West Broadway, Suite 2600  
23    San Diego, CA 92101  
24    Attn: Jeffrey A. Chine, Esq.  
25    Facsimile: (619) 446-8275  
26    Telephone: (619) 699-2545  
27  
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002496

A-133-79-A2/F6760-A3

Page 44

1 To Commission:

California Coastal Commission  
 San Diego District Office  
 7575 Metropolitan Drive, Suite 103  
 San Diego, CA 92108  
 And a copy to Chief of Enforcement  
 California Coastal Commission  
 45 Fremont Street, 20<sup>th</sup> Floor  
 San Francisco, CA 94105-2219  
 Facsimile: (619) 767-2384  
 Telephone: (619) 767-2370

6 With a copy to:

Jamee Jordan Patterson, Esq.  
 Supervising Deputy Attorney General  
 State of California  
 P.O. Box 85266  
 110 West A St., Suite 1100  
 San Diego, CA 92186-5266  
 Facsimile: (619) 645-2012  
 Telephone: (619) 645-2023

11 Any party may from time to time, by written notice to the other, designate a different  
 12 address, which shall be substituted for the one above specified. Unless otherwise specifically  
 13 provided for in this Agreement, all notices, payments, demands or other communications shall be  
 14 in writing and shall be deemed to have been duly given and received (i) upon personal delivery or  
 15 (ii) as of the third business day after mailing by United States registered or certified mail, return  
 16 receipt requested, postage prepaid, addressed as set forth above, or (iii) the immediately  
 17 succeeding business day after timely deposit with Federal Express or other equivalent overnight  
 18 delivery system or (iv) if sent by facsimile, upon confirmation if sent before 5:00 p.m. on a  
 19 business day or otherwise on the business day following confirmation of such facsimile, and  
 20 provided that notice is also sent on the same day by one of the methods described above.

21 IN WITNESS WHEREOF, the parties have executed this Agreement as of the date set  
 22 forth above.

23 Dianne Kretowicz

California Coastal Commission

24 By: Dianne Kretowicz

By: \_\_\_\_\_

Its: \_\_\_\_\_

26 Ure Kretowicz

By: \_\_\_\_\_

Its: \_\_\_\_\_

27 By: \_\_\_\_\_

28

12

STIPULATION FOR ENTRY OF JUDGMENT



1 To Commission:

California Coastal Commission  
San Diego District Office  
7575 Metropolitan Drive, Suite 103  
San Diego, CA 92108  
And a copy to Chief of Enforcement  
California Coastal Commission  
45 Fremont Street, 20<sup>th</sup> Floor  
San Francisco, CA 94105-2219  
Facsimile: (619) 767-2384  
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20 provided that notice is also sent on the same day by one of the methods described above.

21 IN WITNESS WHEREOF, the parties have executed this Agreement as of the date set  
22 forth above.

23 Dianne Kretowicz

California Coastal Commission

24 By: Dianne Kretowicz

By: [Signature]

Its: Executive Director

26 Ure Kretowicz

By: \_\_\_\_\_

Its: \_\_\_\_\_

27 By: [Signature]




002498

A-133-79-A2/F6760-A3

Page 46

1 APPROVED AS TO FORM:

2  
3 LUCE, FORWARD, HAMILTON & SCRIPPS LLP

4  
5 By:   
6 Jeffrey A. Zhine, Attorney for Dianne  
7 Kretowicz and Ute Kretowicz, as Trustees  
of The Princess Trust

8 OFFICE OF ATTORNEY GENERAL

9  
10 By:   
11 Janice Patterson, Deputy Attorney General,  
Attorney for the California Coastal Commission

12 ORDER

13 FOR GOOD CAUSE SHOWN, IT IS SO ORDERED that the Stipulation for Entry of  
14 Judgment be entered as the judgment in the above-captioned case.

15  
16 Dated: \_\_\_\_\_

17 By: \_\_\_\_\_  
18 Hon. Linda B. Quinn  
19 Judge of the Superior Court

20 3777815.1  
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350-15

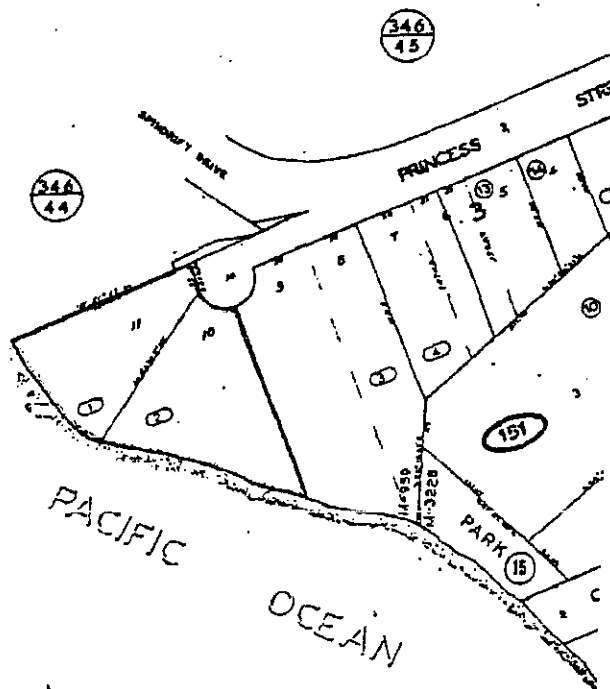


EXHIBIT "A"

SAN DIEGO COUNTY  
ASSessor's MAP



002500

A-133-79-A2/F6760-A3

Page 48

STAFF RECOMMENDATION

**PASSED UNANIMOUSLY 9/20/79**

Appendix 133-79  
(Baker)  
Hearing Opened: 6/19/79

DECISION OFREGIONALCOMMISSION:Permit granted with conditions by San Diego Coast Regional CommissionPERMITAPPLICANTS:

Jane E. Baker

APPELLANT:

Anthony Ciani

DEVELOPMENTLOCATION:

One half mile east of La Jolla Cove, at 7957 Princess Street, La Jolla, City and County of San Diego (Exhibits 1, 2)

DEVELOPMENTDESCRIPTION:

Single story addition to existing two-story, single family residence (Exhibits 3, 4)

PUBLICHEARING:

Opened on June 19, 1979 in Los Angeles

ADDITIONAL SUBSTANTIVE FILE DOCUMENTS: La Jolla Community PlanSTAFF RECOMMENDATION:

The staff recommends that the Commission adopt the following resolution:

I. Approval with Conditions.

The Commission hereby grants, subject to the conditions below, a permit for the proposed development on the grounds that, as conditioned, the development is in conformity with the provisions of Chapter 3 of the Coastal Act, will not prejudice the ability of the local government having jurisdiction over the area to prepare a Local Coastal Program conforming to the provisions of Chapter 3 of the Coastal Act, is located between the sea and the public road nearest the sea and is in conformity with the public access and public recreation policies of Chapter 3 of the Coastal Act, and will not have any significant adverse impacts on the environment within the meaning of the California Environmental Quality Act.

II. Conditions.

This permit is subject to the following condition:

Public Access. Prior to the issuance of the permit, the applicant shall submit, for the review and approval of the Executive Director, a document irrevocably offering to dedicate to a public agency or private association approved by the Executive Director easements for public access to and along the shoreline in accordance with the provisions of this condition. The approved document shall be irrevocable for a period of 21 years running from the date of recordation. The documents shall be recorded free of all prior liens and encumbrances except for tax liens and shall constitute a covenant running with

9/16-20/79

EXHIBIT NO. 7
APPLICATION NO.
A-133-79-
A2/F6760-A3
Original Staff Report with Public Access Special Conditions for CDP A-133-79
California Coastal Commission



-2-

the land in favor of the People of the State of California binding the applicant, heirs, assigns and successors in interest to the subject property. The documents shall provide for offers to dedicate easements for:

A. Lateral Access along the shoreline. The easement shall extend across the ocean frontage of parcel from the toe of the bluff seaward to the mean high tide line; where sea caves exist, the easement shall extend to the inland extent of the cave. The easement shall allow for passive recreational use by the public and shall allow accepting agency to post signs indicating that marine life cannot be removed from the area.

B. Vertical Access extending from Princess Drive to the mean high tideline. The easement shall be 5 ft. in width and shall extend along the southern edge of the property adjacent to the garage and down the bluff along the trail currently existing on the site (Exhibit 3). The exact location of the easement shall be plotted on a map subject to the review and approval of the Executive Director and shall be attached as an exhibit to the recorded document.

The easement shall be available for public pedestrian use from sun rise to sunset and for emergency rescue operations 24 hours per day. The terms of the easement shall allow the accepting agency, with the concurrence of the Coastal Commission or its successor in interest, to construct improvements to the accessway to ease the public's ability to reach the shoreline. The easement shall also allow the accepting agency to post signs informing the public of the existence of the accessway.

Nothing in this condition shall be construed to constitute a waiver of any sort or a determination on any issue of prescriptive rights or public trust lands which may exist on the parcel itself or on the designated easement.

### III. Findings and Declarations.

The Commission finds and declares as follows:

1. Project Description and History. The applicant proposes to construct a one-story, 3,566-sq. ft. addition to an existing 1,250-sq. ft. single-family house. The existing dwelling is two stories in height but is situated primarily below street level. The proposed addition, two ft. higher than the existing structure with the exception of a rotunda projecting six feet above the new roofline, would be 7½ ft. above the centerline of the frontage road. The proposed project would be set back 35 ft. from the irregularly-shaped bluff and 2½ ft. from the frontage road. No exterior grading would be required.

The proposed addition would be constructed on a parcel consisting of the lot on which the existing structure is situated and an adjacent undeveloped lot (Exhibit 2). The project site is a blufftop parcel located on a promontory overlooking the San Diego-La Jolla Underwater Park and Ecological Reserve, about ¼ mile east of La Jolla Cove. The site is located at the end of Princess Street, a residential cul-de-sac (Exhibit 2).

In June, 1978, the Regional Commission granted a permit for the proposed development. The permit was subject to conditions to assure the geologic stability of the development. The Regional Commission found that, as conditioned, the development was consistent with the provisions of Chapter 3 of the Act. Although the project site is between the first public road and the sea, the Regional Commission did not make a specific finding regarding the conformity of the development to the public access policies of the Act as required under Section 30604 of the Act. This decision was appealed to the State Commission, which



-3-

subsequently found that no substantial issue was raised by the appeal.

Subsequent to the State Commission action, the appellants filed for a Writ of Mandate with the San Diego County Superior Court. This action challenged, among other issues, the adequacy of the Commission decision due to the failure to make the requisite finding regarding public access. The trial judge ruled that the finding on public access was required prior to issuance of the permit and remanded the decision to the Regional Commission for a determination on the conformity of the project to the access provisions of the Act. The Court ruled that the Regional Commission could make this determination based on the prior record, or open the public hearing and make a determination based on both previously submitted and new evidence. Although noticed as a public hearing, the Regional Commission decided not to admit new evidence on the issue of public access. Based on the documents in the record, the Regional Commission found that access dedications would not be appropriate at the site due to safety constraints and resource protection concerns and that the development would, therefore, be consistent with the access policies of the Act. Over the past year, the applicant completed the construction of the addition which is the subject of this appeal. The appellants contend that the addition is sited over a trail traditionally used by the public to obtain access to the shoreline and Charolette Park, a City-owned oceanfront park.

2. Public Access. The proposed project site is located between the first public road and the sea on a promontory overlooking the San Diego-La Jolla Underwater Park and Ecological Reserve, about  $\frac{1}{2}$  mile east of La Jolla Cove. The Coastal Act of 1976 requires that public access to and along the shoreline be maximized. In accordance with this policy statement Sections 30210 - 30212 of the Act provides:

In carrying out the requirement of Section 4 of Article 10 of the California Constitution, maximum access, which shall be conspicuously posted, and recreational opportunities shall be provided for all the people consistent with public safety needs and the need to protect public rights, rights of private property owners, and natural resource areas from overuse. (30210)

Development shall not interfere with the public's right of access to the sea where acquired through use... or legislative authorization, including, but not limited to, the use of dry sand and rocky coastal beaches to the first line of terrestrial vegetation. (30211) (Emphasis Added)

Public access from the nearest public roadway to the shoreline and along the coast shall be provided in new development projects except where (1) it is inconsistent with public safety, military security needs, or the protection of fragile coastal resources, (2) adequate access exists nearby, or (3) agriculture would be adversely affected. Dedicated accessways shall not be required to be opened to public use until a public agency or private association agrees to accept responsibility for maintenance and liability of the accessway. (30212)

The project site is a blufftop lot overlooking the rocky shoreline adjacent to the La Jolla Underwater Park ecological reserve. To the south of the site is the .16 acre Charolette Park. Public access to the shoreline below and to the City park is currently available only at low tide by walking down coast from an accessway at La Jolla Shores  $\frac{1}{2}$ -mile north of the site.



-4-

The Commission finds that access to this pocket beach is only available at low tide due to the promontories which impede access to the beach from the nearest accessway to the shoreline which is located  $\frac{1}{4}$  mile up coast. The Commission concludes, therefore, that adequate access does not exist nearby. Although the public has historically had access over the project site, construction of the project has precluded the use of this accessway, thereby diminishing the public's right of access to the state owned tidelands. An alternative accessway must, therefore, be provided to offset the burdens this development has placed on public's constitutional right of access and to assure the conformity of the project to the provisions of Section 30212 of the Act. The applicant contends that, because of the steepness of the bluff, the accessway would not be safe and therefore need not be provided under subsection (3) of Section 30212. This site has historically been used for access to the shoreline below. A site inspection revealed that it was not difficult to walk down the bluff face and, if minor improvements were made, the access way could be easily traversed with little damage to the landforms. The Commission concludes that public access can be provided consistent with public safety and must, therefore, be provided to find the proposed project consistent with the Coastal Act.

Prior to the construction of the proposed addition, the site was the last remaining vacant parcel adjacent to the subject pocket beach and Charlotte Park. Numerous letters have been submitted stating that the public had continuously used the project site to gain access to the shoreline and to the adjacent Charlotte Park. This is the only trail to gain access to this pocket beach and city-owned Oceanfront park. Evidence of a well worn trail currently exists on the edge and face of the bluff, although the portion of the trail extending from the road to the bluff top has been covered by the addition to the residence which is the subject of this application. The appellants contend that since the addition interferes with public access as established through historic use, the project can not be found consistent with Section 30211 of the Coastal Act. The appellants concede, however, that since the addition is constructed denial of the project may not be an acceptable solution. The Commission notes that the Coastal Act requires that public prescriptive rights be protected wherever they exist. However, as set forth in the Statewide Interpretive Guidelines on public access development may be sited in an area of historic public use where equivalent areas for public access are provided. The Commission has noted in previous appeals [401-78 (Tree)] and the guidelines that such relocated accessways to compensate for the lost public accessway and find the project consistent with Section 30211 of the Act. The Commission finds that the submitted documents give clear indication of the historic use of the parcel. Because of the historic use and the fact that access to the cove beach below the site and city-owned oceanfront park adjacent to the site would be totally precluded by approval of the project without provisions for public access the Commission cannot find the project as proposed consistent with the provisions of either Sections 30211 or 30212 of the Act. Only, as conditioned, to provide an access path equivalent to the historic use area of the site and to provide lateral access along the shoreline can the commission conclude that the project is consistent with the public access provisions of the Coastal Act.



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A-133-79-A2/F6760-A3

Page 52

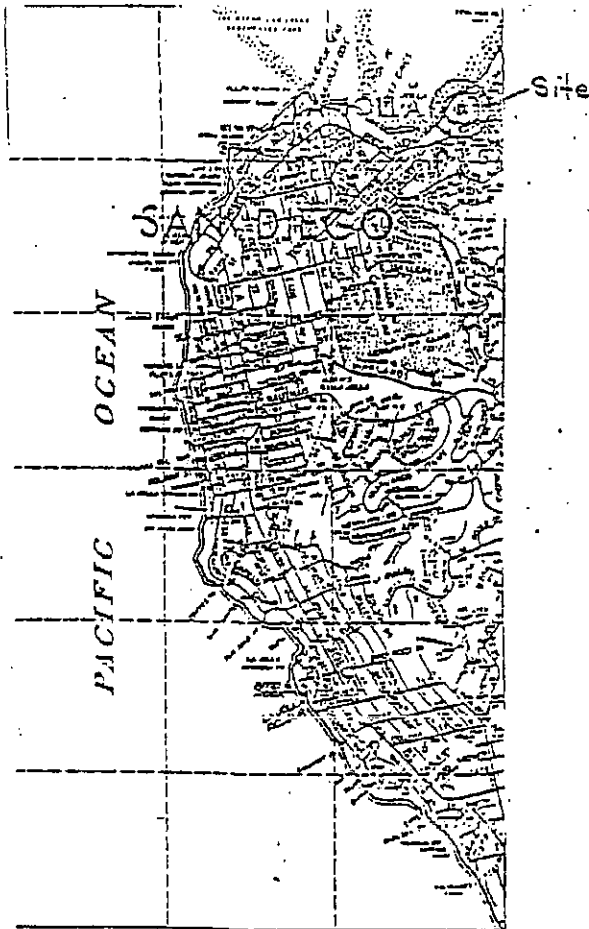


EXHIBIT 1



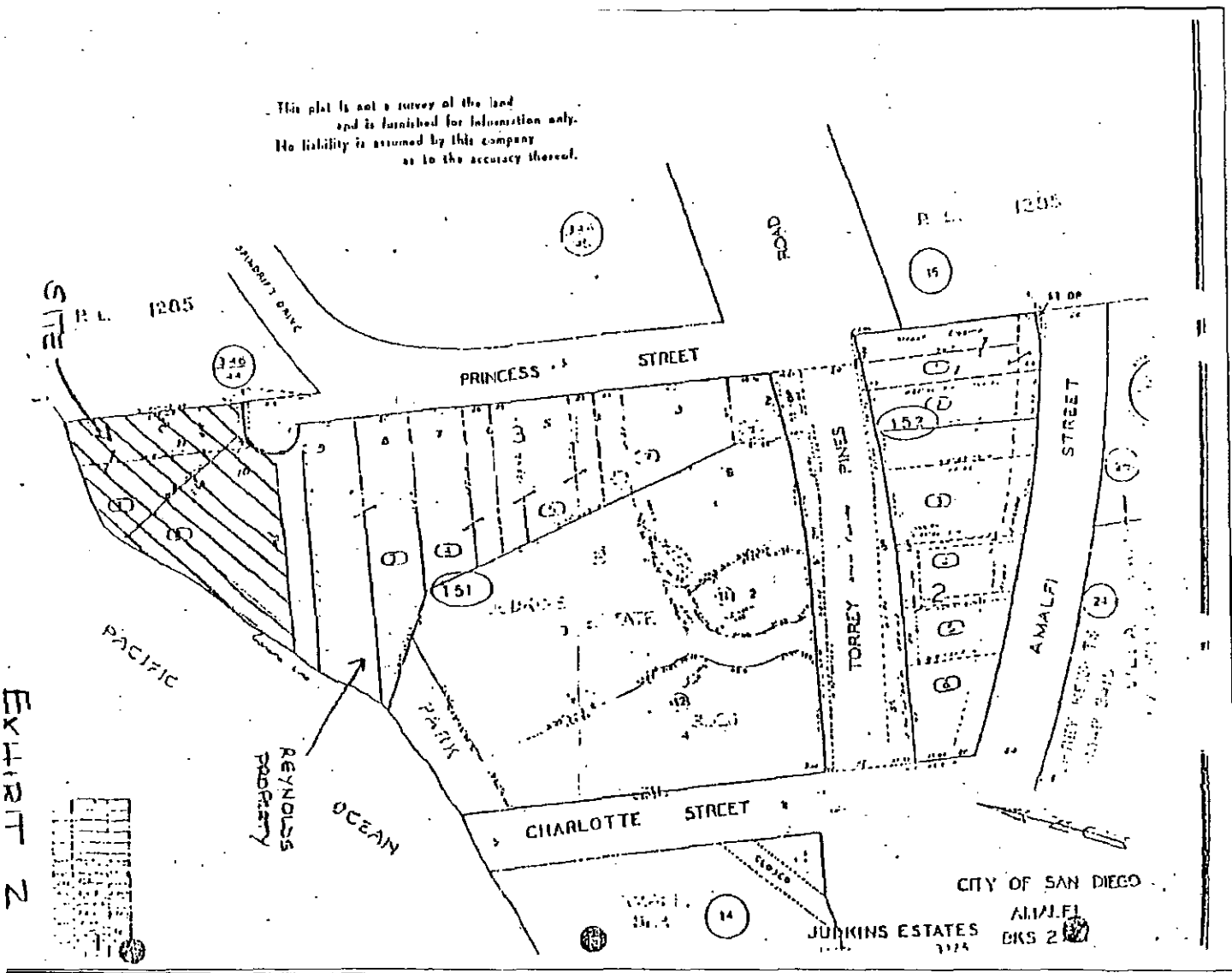


EXHIBIT 2



TO SITE DEVELOPMENT PERMIT #108967  
REQUESTING NEIGHBORHOOD USE PERMIT  
7957 PRINCESS ST.  
LA JOLLA, CA 92037



KRETOWICZ RESIDENCE  
7957 PRINCESS ST.  
LA JOLLA, CA 92037

06/79/9 ED City Council Subsequent  
12/16/9 HCCD Meeting Subsequent  
02/27/9 ED City Council Re-Schedule

COASTAL DOCUMENTS

FILE NO. (FBI) 2004-43  
DATE OF REPORT 6/1/04  
REPORT NO. 101  
BY AGENT J. J. J.

[illegible]

TITLE SHEET  
 T-1  
 SHEET 1 OF 22

ATTACHMENT 13



002508

ATTACHMENT 13

TOPOGRAPHICAL SURVEY



**S&O** PLANNING DESIGN CONSULTANTS  
Lead Planning  
CNC Engineering  
Lead Surveying  
62152.00 (52842H)

PRINCESS STREET VACATION - MSB 7/13/04



**Marengo  
Morton  
Architects**  
7855 Ivanhoe Ave.  
Suite 110  
La Jolla, CA 92037  
Tel. (858) 459-3769  
Fax. (858) 459-3768  
Richard Morton AIA  
Claudio Anthony Marengo D. AS



All rights, title and interest in and to the project and the project's completion are hereby assigned to Marengo Morton Architects. Marengo Morton Architects is the sole owner of the project and the project's completion. Marengo Morton Architects is the sole owner of the project and the project's completion. Marengo Morton Architects is the sole owner of the project and the project's completion.

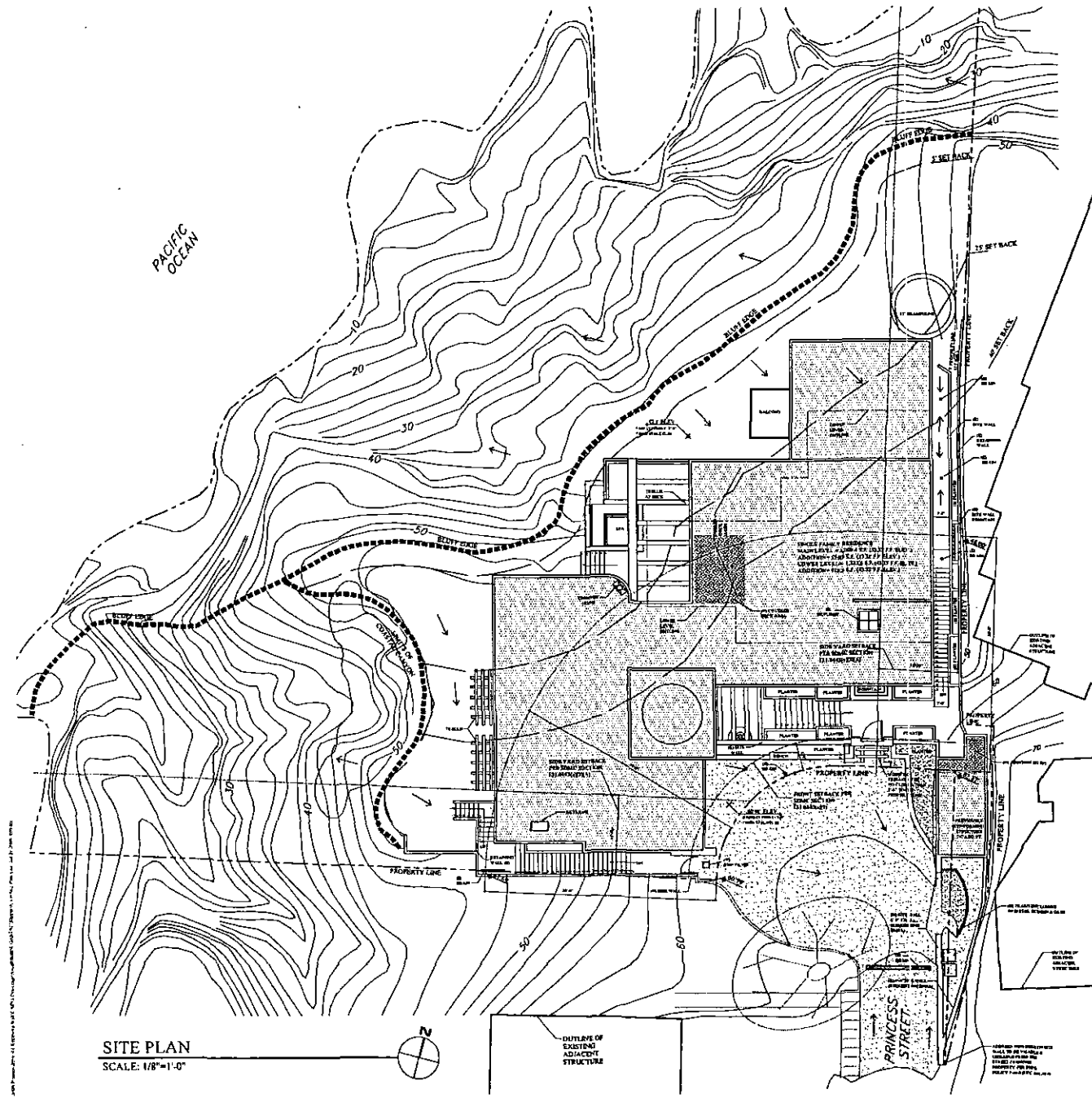
**KRETOWICZ RESIDENCE**  
7957 PRINCESS ST.  
LA JOLLA, CA 92037

10/1/04  
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COASTAL DOCUMENTS
PROJECT NO. 2004-01
DATE 07-15-03

TOPOGRAPHICAL SURVEY  
**TOPO**  
SHEET 1 OF 22





**SITE PLAN**  
SCALE: 1/8"=1'-0"

**SITE PLAN LEGEND**

- BLUFF LINE SET BACK
- GEOLOGICAL BLUFF LINE
- PROPERTY LINE
- GRADE DRAINAGE PATTERN

**FIRE HYDRANT LOCATION**

SITE LOCATION  
7957 PRINCESS ST.

**Owner's Comments**  
For Fire Construction Dept.

I have the understanding that the proposed project is in compliance with the San Diego 1993 Building Code, and I am submitting this plan to the Fire Department for their review and approval. I am also submitting this plan to the Fire Department for their review and approval.

I certify that the information provided in this plan is true and correct.

**Additional Information**

- Location: 7957 Princess St., San Diego, CA 92121
- Owner: Kretowicz Residence
- Architect: Kretowicz Residence
- Engineer: Kretowicz Residence
- Fire Department: San Diego Fire Department
- Fire Hydrant: 7957 Princess St.

**Additional Information**

- Additional Information: The proposed project is in compliance with the San Diego 1993 Building Code, and I am submitting this plan to the Fire Department for their review and approval. I am also submitting this plan to the Fire Department for their review and approval.

**Additional Information**

- Additional Information: The proposed project is in compliance with the San Diego 1993 Building Code, and I am submitting this plan to the Fire Department for their review and approval. I am also submitting this plan to the Fire Department for their review and approval.

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7855 Ivanhoe Ave.  
Suite 110  
La Jolla, CA 92037  
Tel. (619) 459-3769  
Fax. (619) 459-3768  
Michael Morton AIA  
Charles Anthony Marengo C.A.S.

**KRETOWICZ RESIDENCE**  
7957 PRINCESS ST.  
LA JOLLA, CA 92037

**COASTAL DOCUMENTS**

PROJECT NO. 2004-01

DATE: 07-11-04

SCALE: 1/8"=1'-0"

**SITE PLAN**  
A-1.0

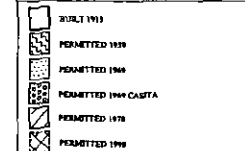
SHEET 3 OF 22





7957 PRINCESS ST.  
LA JOLLA, CA 92037

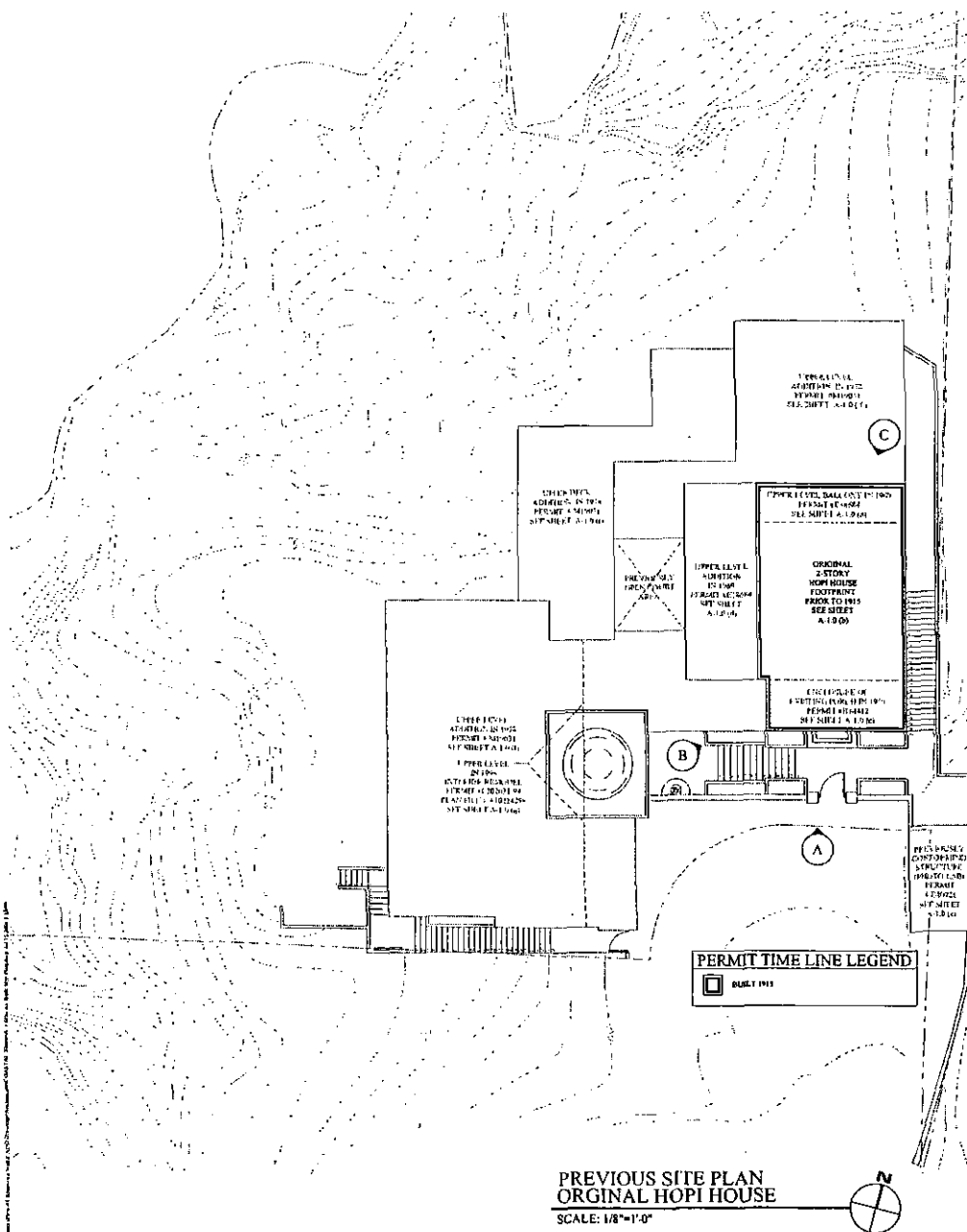
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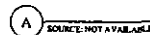
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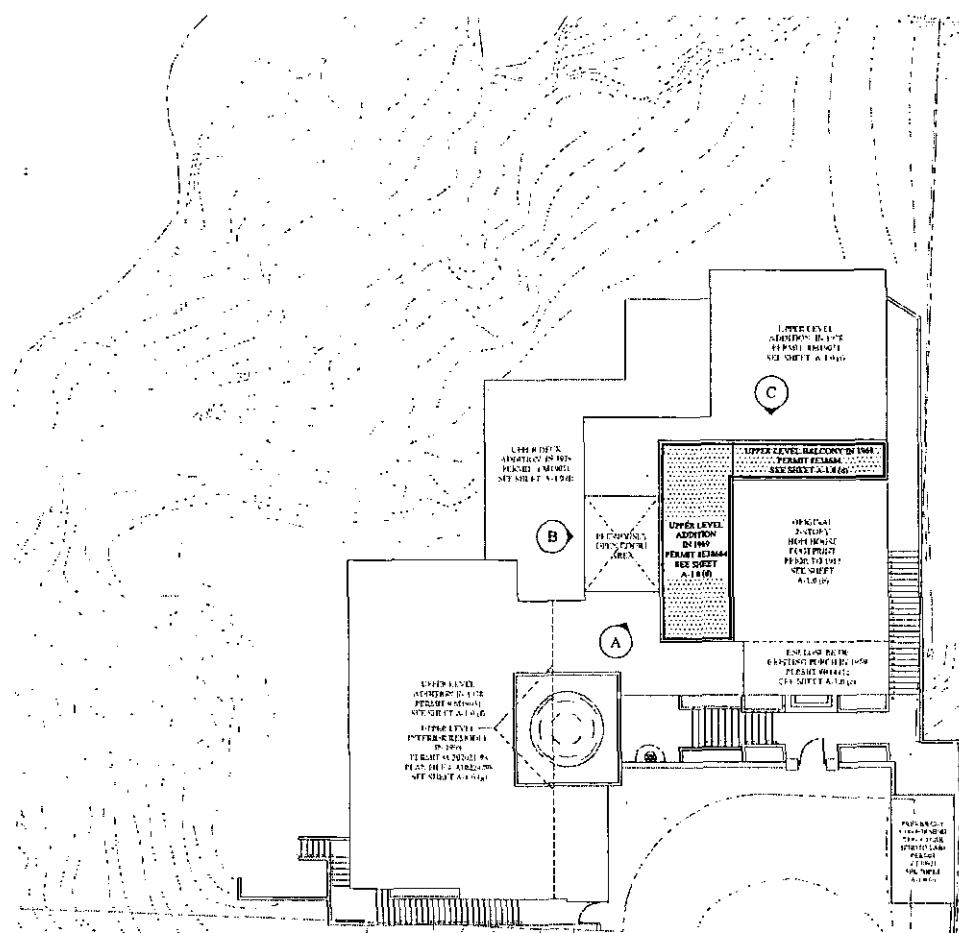
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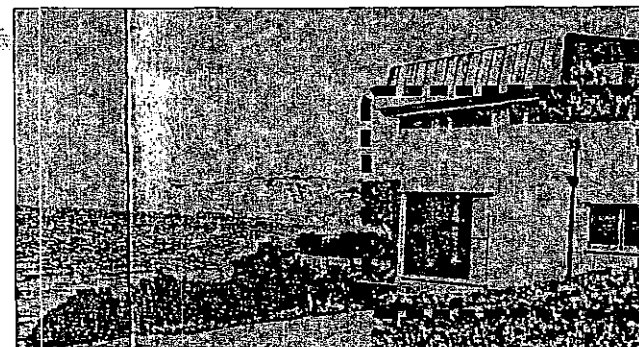


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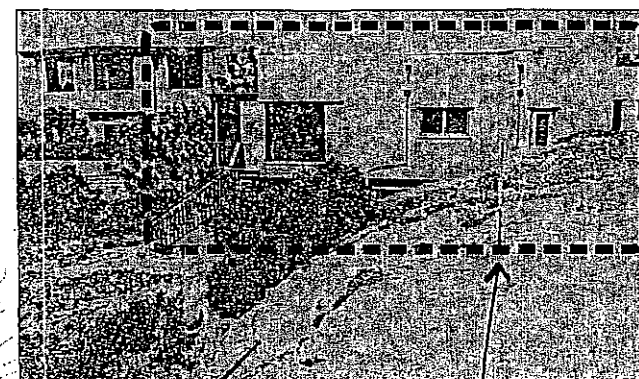




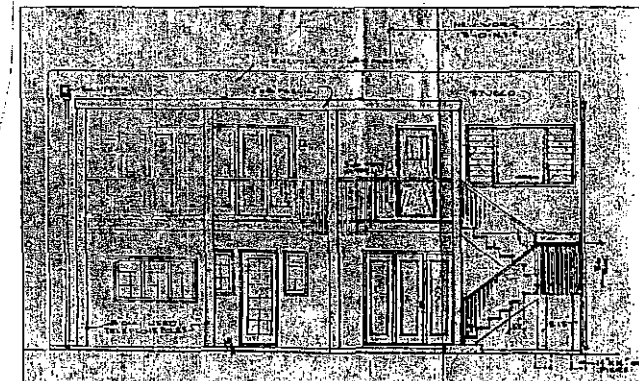
**PREVIOUS SITE PLAN PERMIT # E38684**  
SCALE: 1/8"=1'-0"



**A** SOURCE: NOT AVAILABLE



8 SOURCE: NOT AVAILABLE.



23 SOURCE: WMS & ASSOCIATES PERMIT #EJIAN



**Marengo  
Morton  
Architects**

7855 Ivyhoe Ave.  
Suite 110  
La Jolla, CA 92037  
Tel. (858) 459-3769  
Fax. (858) 459-3768  
Michael Morton AIA  
Claude Anthony Marcum D



All designs, ideas and proposals are welcomed on these drawings and the copyright and legal ownership of drawings remain with the client. Development and the aspects groups for which they may prepared on behalf on the property developer. Representations, statements or use for any material, it is made or put, without the written consent of the drawings remain with the client. Representations, statements or use for any material, it is made or put, without the written consent of the drawings remain with the client. Representations, statements or use for any material, it is made or put, without the written consent of the drawings remain with the client.

## KRETOWICZ RESIDENCE

7957 PRINCESS ST.  
LA JOLLA, CA 92037

002/007 ED City Council Substantive  
129/047 NCED Meeting Substantive  
05/000 ED City Council Re-Substantive



## FROM COASTAL DOCUMENTS

DATE: 2006-4-1

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—The U.S. Army is currently testing a new type of tank, the M1A2 SEP (Main Battle Tank), which is a more advanced version of the M1A1 SEP. The M1A2 SEP is a main battle tank that is designed to be a more versatile and powerful tank than the M1A1 SEP. It is a more advanced version of the M1A1 SEP, which is a main battle tank that is designed to be a more versatile and powerful tank than the M1A1 SEP.

**THE**

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505 x 7 mm (20)

PREVIOUS STATE  
PERMIT NO.

1.1.4

**A-1.0**

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SHEET 7

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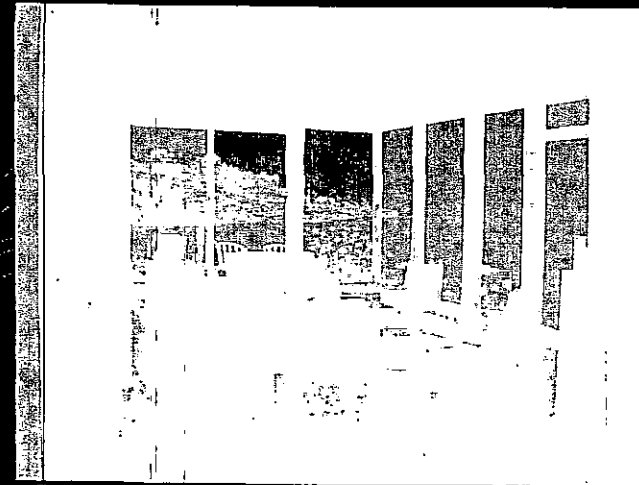
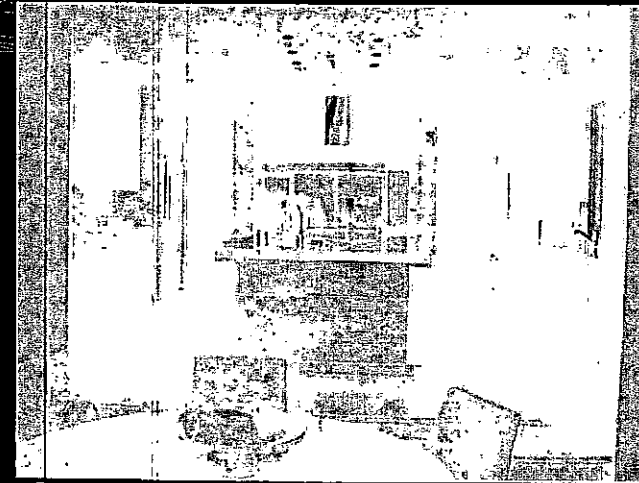
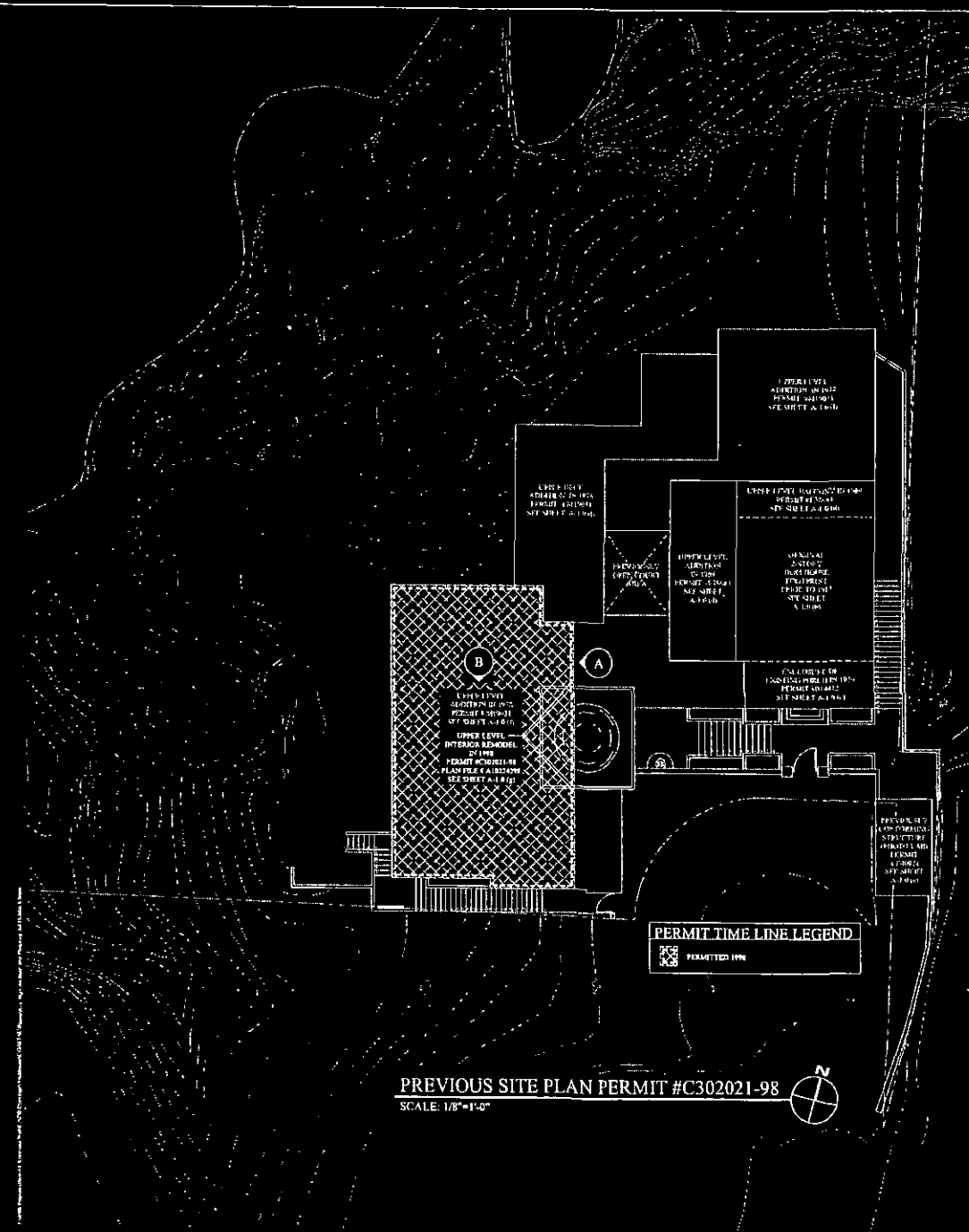


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7957 PRINCESS ST.  
LA JOLLA, CA 92037

001-0000 #67571 SD City Coastal Subdivision 131541 MCCD Housing Subdivision 030700 SD City Coastal Sub Subdivision	
	
TITLE <b>COASTAL DOCUMENTS</b>	
CONTRACT NO. 2004-11	
001-000000	<b>CAM</b>
001-000000	<b>LD</b>
DATE: 07-15-08	
PROJECT DESCRIPTION: The project consists of the construction of a new coastal facility for the City of San Diego, located at the intersection of the San Diego River and the San Diego Bay. The facility will be used for the storage and distribution of coastal resources, including sand, gravel, and other materials. The project is located on a 10-acre site, which is currently undeveloped. The project is expected to be completed by the end of 2008.	
PROJECT LOCATION: The project is located on the San Diego River, approximately 10 miles north of the City of San Diego. The project is situated on a 10-acre site, which is currently undeveloped. The project is expected to be completed by the end of 2008.	
PROJECT OWNER: The project is owned by the City of San Diego, which is the lead agency for the project. The project is expected to be completed by the end of 2008.	
PROJECT CONTACT: The project is managed by the City of San Diego, which is the lead agency for the project. The project is expected to be completed by the end of 2008.	
PROJECT STATUS: The project is currently in the planning phase. The project is expected to be completed by the end of 2008.	
PROJECT BUDGET: The project has a budget of approximately \$10 million. The project is expected to be completed by the end of 2008.	
PROJECT RISK: The project is considered to be a low-risk project. The project is expected to be completed by the end of 2008.	
PROJECT NOTES: The project is a new coastal facility for the City of San Diego, located at the intersection of the San Diego River and the San Diego Bay. The facility will be used for the storage and distribution of coastal resources, including sand, gravel, and other materials. The project is located on a 10-acre site, which is currently undeveloped. The project is expected to be completed by the end of 2008.	
PROJECT ATTACHMENTS: The project has several attachments, including a project description, a project location map, a project owner information sheet, a project contact information sheet, a project status report, a project budget, and a project risk assessment.	





**Marengo Morton Architects**  
7855 Ivanhoe Ave.  
Suite 110  
La Jolla, CA 92037  
Tel. (858) 459-3769  
Fax. (858) 459-3768  
Michael Morton AIA  
Claude Anthony Marengo D. ASCE



ALL WORK SHALL BE DONE IN ACCORDANCE WITH THE LATEST EDITIONS OF THE CALIFORNIA BUILDING CODE AND THE CALIFORNIA ELECTRICAL CODE. THE DESIGNER SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND FOR SEEING THAT THE WORK IS DONE IN ACCORDANCE WITH THE PERMITS. THE DESIGNER SHALL BE RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION PROVIDED TO THE CLIENT. THE DESIGNER SHALL BE RESPONSIBLE FOR THE ACCURACY OF THE INFORMATION PROVIDED TO THE CLIENT.

**KRETOWICZ RESIDENCE**  
7947 PRINCESS ST.  
LA JOLLA, CA 92037

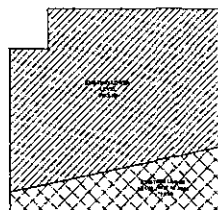
DESIGNED BY: KRETOWICZ RESIDENCE  
DRAWN BY: KRETOWICZ RESIDENCE  
CHECKED BY: KRETOWICZ RESIDENCE  
APPROVED BY: KRETOWICZ RESIDENCE

PROJECT	COASTAL DOCUMENTS
DATE	2006-01
SCALE	CAM
DATE	10
DATE	07-15-08

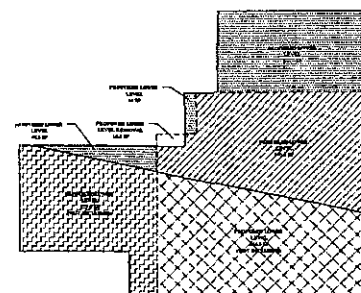
**PREVIOUS SITE PLAN PERMIT #C302021-98**  
**A-1.0(g)**  
SHEET 16 OF 22



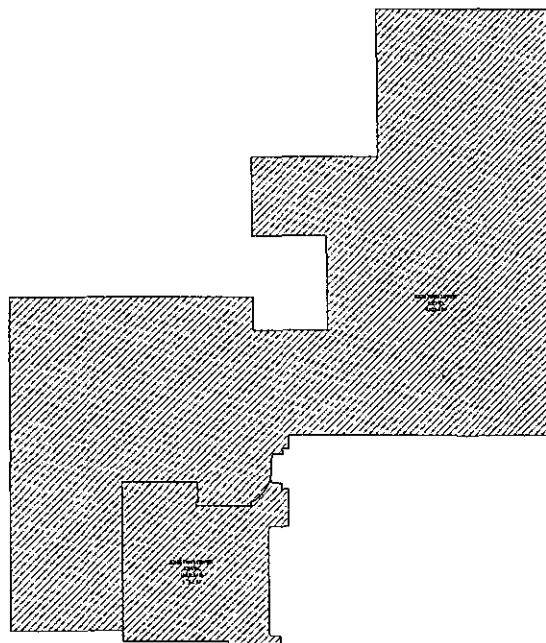
ATTACHMENT 13



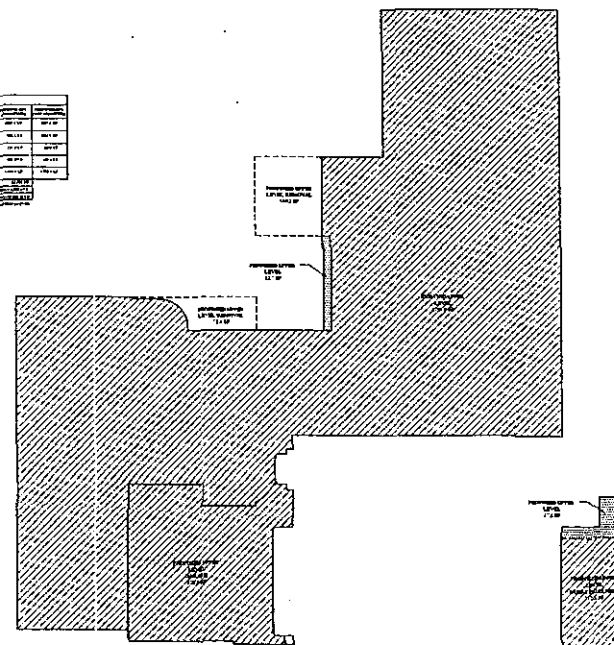
**EXISTING LOWER LEVEL - GFA PLAN**  
SCALE: 1/8"=1'-0"



**PROPOSED LOWER LEVEL - GFA PLAN**  
SCALE: 1/8"=1'-0"



**EXISTING UPPER LEVEL - GFA PLAN**  
SCALE: 1/8"=1'-0"

[illegible]

**PROPOSED UPPER LEVEL - GFA PLAN**  
SCALE: 1/1"=1'-0"



**Marengo  
Morton  
Architects**

7855 Ivanhoe Ave.  
Suite 110  
La Jolla, CA 92037  
Tel. (858) 459-3769  
Fax. (858) 459-3768  
Michael Morron, ASA  
Claude Anthony Marrero, D.S.A.

[illegible]

KRETOWICZ RESIDENCE

1957 PRINCESS ST.  
LA JOLLA, CA 92037

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED  
DATE 08-14-2010 BY 60322 UCBAW

COASTAL  
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68-10790-1

ALL INFORMATION CONTAINED HEREIN IS UNCLASSIFIED  
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Bellevue, Ill.	1.3
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**Abstract**

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**SHEET 11**





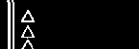
**Marengo Morton Architects**  
 7855 Ivanhoe Ave.  
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 La Jolla, CA 92037  
 Tel. (858) 459-3769  
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 Michael Morton AIA  
 Charles Anthony Morton D. AS



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**KRETOWICZ RESIDENCE**  
 7981 PRINCCESS ST.  
 LA JOLLA, CA 92037

NO. 10000  
 8470001 SD City County School  
 83000100 SD City County School  
 83000100 SD City County No School



**COASTAL DOCUMENTS**

PROJECT NO. 2006-01

DESIGNER: CAM

SCALE: 1/8"

DATE: 07-15-08

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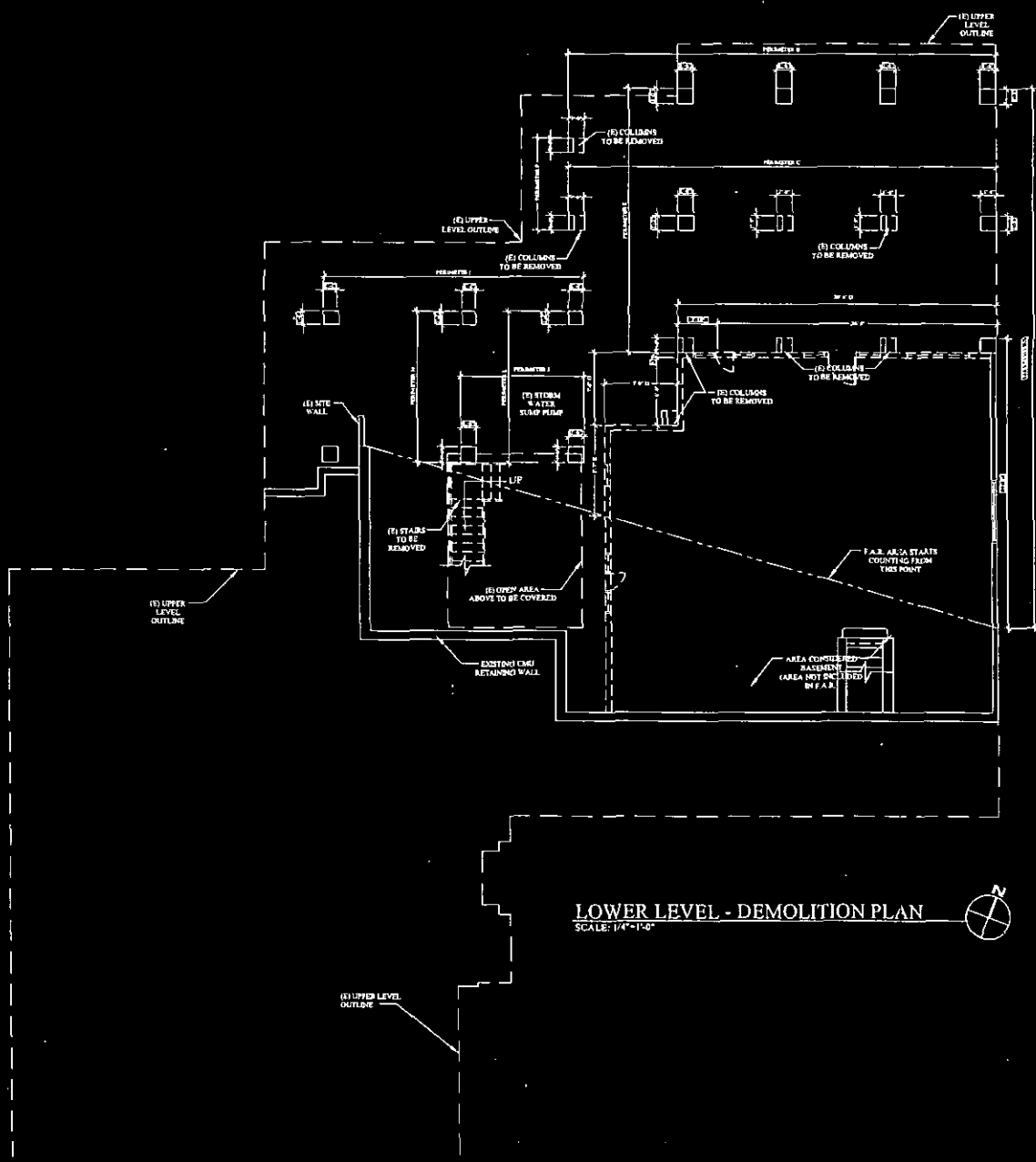
**LOWER LEVEL DEMOLITION PLAN**

**A-1.2**

SHEET 12 OF 22

DEMOLITION WALL LEGEND	
	EXISTING WALL - TO REMAIN AND HAVE NEW FINISHES
	EXISTING WALL - TO BE REMOVED
	EXISTING WALL - TO BE DEMOLISHED
	EXISTING WALL - TO BE DEMOLISHED
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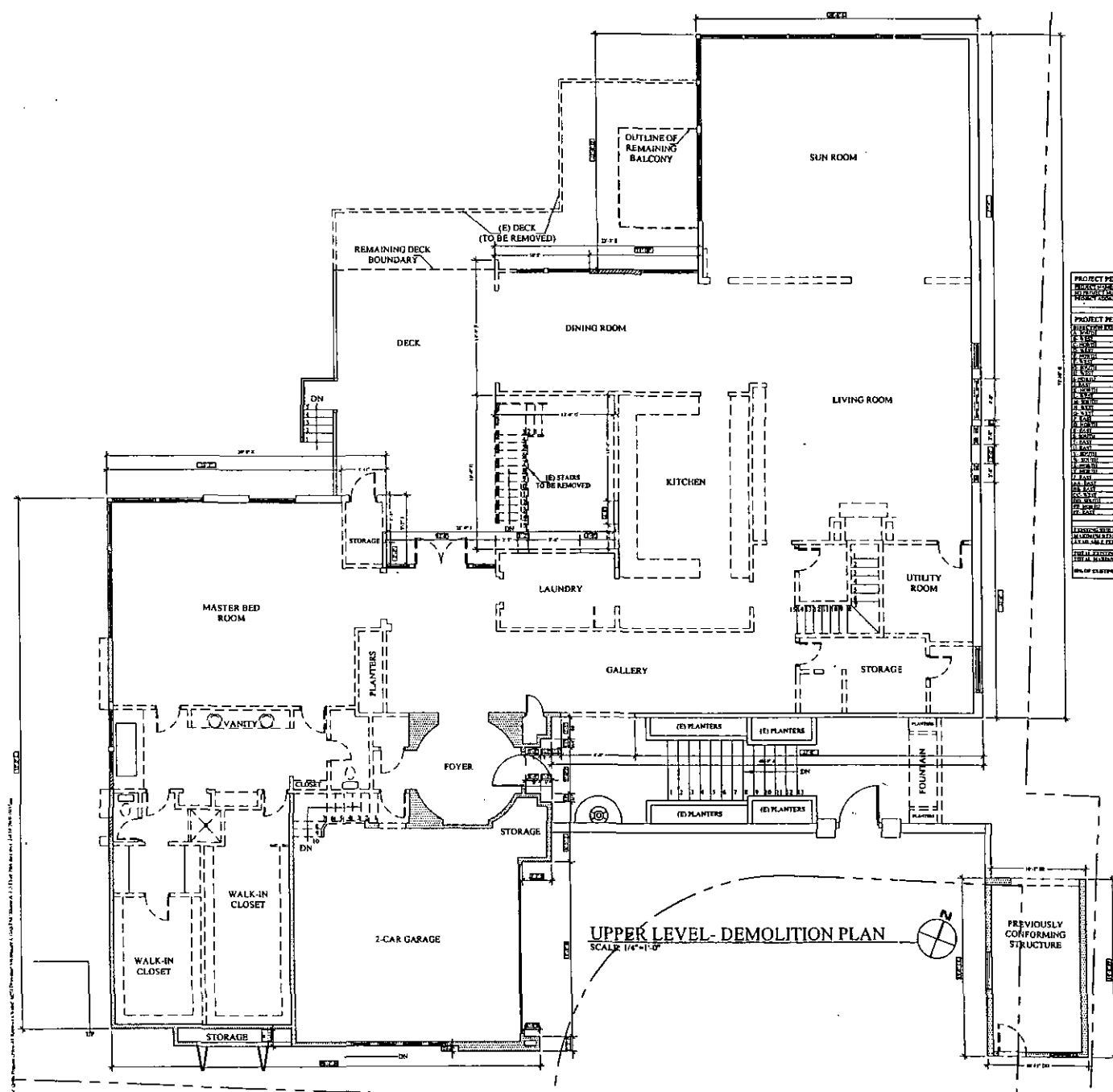
PROJECT PERIMETER WORKSHEET	
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**LOWER LEVEL - DEMOLITION PLAN**  
 SCALE: 1/4"=1'-0"

1. All dimensions are in feet and inches. 2. All dimensions are to the center of the wall unless otherwise noted. 3. All dimensions are to the center of the column unless otherwise noted. 4. All dimensions are to the center of the door unless otherwise noted. 5. All dimensions are to the center of the window unless otherwise noted. 6. All dimensions are to the center of the stair unless otherwise noted. 7. All dimensions are to the center of the ramp unless otherwise noted. 8. All dimensions are to the center of the elevator unless otherwise noted. 9. All dimensions are to the center of the shaft unless otherwise noted. 10. All dimensions are to the center of the core unless otherwise noted. 11. All dimensions are to the center of the tower unless otherwise noted. 12. All dimensions are to the center of the spire unless otherwise noted. 13. All dimensions are to the center of the dome unless otherwise noted. 14. All dimensions are to the center of the cupola unless otherwise noted. 15. All dimensions are to the center of the lantern unless otherwise noted. 16. All dimensions are to the center of the finial unless otherwise noted. 17. All dimensions are to the center of the weather vane unless otherwise noted. 18. All dimensions are to the center of the flagpole unless otherwise noted. 19. All dimensions are to the center of the antenna unless otherwise noted. 20. All dimensions are to the center of the satellite dish unless otherwise noted. 21. All dimensions are to the center of the solar panel unless otherwise noted. 22. All dimensions are to the center of the wind turbine unless otherwise noted. 23. All dimensions are to the center of the water tower unless otherwise noted. 24. All dimensions are to the center of the smokestack unless otherwise noted. 25. All dimensions are to the center of the chimney unless otherwise noted. 26. All dimensions are to the center of the vent unless otherwise noted. 27. All dimensions are to the center of the pipe unless otherwise noted. 28. All dimensions are to the center of the duct unless otherwise noted. 29. All dimensions are to the center of the flue unless otherwise noted. 30. All dimensions are to the center of the stack unless otherwise noted. 31. All dimensions are to the center of the riser unless otherwise noted. 32. All dimensions are to the center of the tread unless otherwise noted. 33. All dimensions are to the center of the nosing unless otherwise noted. 34. All dimensions are to the center of the balustrade unless otherwise noted. 35. All dimensions are to the center of the handrail unless otherwise noted. 36. All dimensions are to the center of the newel post unless otherwise noted. 37. All dimensions are to the center of the spindle unless otherwise noted. 38. All dimensions are to the center of the rope unless otherwise noted. 39. All dimensions are to the center of the chain unless otherwise noted. 40. All dimensions are to the center of the cable unless otherwise noted. 41. All dimensions are to the center of the wire unless otherwise noted. 42. All dimensions are to the center of the rod unless otherwise noted. 43. All dimensions are to the center of the bolt unless otherwise noted. 44. All dimensions are to the center of the nut unless otherwise noted. 45. All dimensions are to the center of the washer unless otherwise noted. 46. All dimensions are to the center of the spacer unless otherwise noted. 47. All dimensions are to the center of the sleeve unless otherwise noted. 48. All dimensions are to the center of the cap unless otherwise noted. 49. All dimensions are to the center of the plug unless otherwise noted. 50. All dimensions are to the center of the anchor unless otherwise noted. 51. All dimensions are to the center of the bracket unless otherwise noted. 52. All dimensions are to the center of the support unless otherwise noted. 53. All dimensions are to the center of the hanger unless otherwise noted. 54. All dimensions are to the center of the clip unless otherwise noted. 55. All dimensions are to the center of the pin unless otherwise noted. 56. All dimensions are to the center of the nail unless otherwise noted. 57. All dimensions are to the center of the screw unless otherwise noted. 58. All dimensions are to the center of the bolt unless otherwise noted. 59. All dimensions are to the center of the nut unless otherwise noted. 60. All dimensions are to the center of the washer unless otherwise noted. 61. All dimensions are to the center of the spacer unless otherwise noted. 62. All dimensions are to the center of the sleeve unless otherwise noted. 63. All dimensions are to the center of the cap unless otherwise noted. 64. All dimensions are to the center of the plug unless otherwise noted. 65. All dimensions are to the center of the anchor unless otherwise noted. 66. All dimensions are to the center of the bracket unless otherwise noted. 67. All dimensions are to the center of the support unless otherwise noted. 68. All dimensions are to the center of the hanger unless otherwise noted. 69. All dimensions are to the center of the clip unless otherwise noted. 70. All dimensions are to the center of the pin unless otherwise noted. 71. All dimensions are to the center of the nail unless otherwise noted. 72. All dimensions are to the center of the screw unless otherwise noted. 73. All dimensions are to the center of the bolt unless otherwise noted. 74. All dimensions are to the center of the nut unless otherwise noted. 75. All dimensions are to the center of the washer unless otherwise noted. 76. All dimensions are to the center of the spacer unless otherwise noted. 77. All dimensions are to the center of the sleeve unless otherwise noted. 78. All dimensions are to the center of the cap unless otherwise noted. 79. All dimensions are to the center of the plug unless otherwise noted. 80. All dimensions are to the center of the anchor unless otherwise noted. 81. All dimensions are to the center of the bracket unless otherwise noted. 82. All dimensions are to the center of the support unless otherwise noted. 83. All dimensions are to the center of the hanger unless otherwise noted. 84. All dimensions are to the center of the clip unless otherwise noted. 85. All dimensions are to the center of the pin unless otherwise noted. 86. All dimensions are to the center of the nail unless otherwise noted. 87. All dimensions are to the center of the screw unless otherwise noted. 88. All dimensions are to the center of the bolt unless otherwise noted. 89. All dimensions are to the center of the nut unless otherwise noted. 90. All dimensions are to the center of the washer unless otherwise noted. 91. 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**DEMOLITION WALL LEGEND**

	EXISTING WALL, TO REMAIN AND HAVE BEEN PERMETER
	EXISTING WALL, TO BE REMOVED
	EXISTING WALL, TO BE OPEN
	EXISTING WALL, NOT CONSIDERED PERMETER
	PERMETER WALL TO BE OPEN
	PERMETER WALL TO BE REMOVED


**PROJECT PERMETER WORKSHEET**

PROJECT: KRETOWICZ RESIDENCE  
 LOCATION: 7957 PRINCESS ST., LA JOLLA, CA 92037  
 DATE: 01/15/08  
 DRAWN BY: [Signature]

ITEM NO.	DESCRIPTION	QTY	UNIT	PRICE	TOTAL
1	DEMOLITION OF EXISTING WALLS	100	SQ. FT.	1.50	150.00
2	DEMOLITION OF EXISTING FLOORS	50	SQ. FT.	1.00	50.00
3	DEMOLITION OF EXISTING CEILING	50	SQ. FT.	1.00	50.00
4	DEMOLITION OF EXISTING ROOF	100	SQ. FT.	1.50	150.00
5	DEMOLITION OF EXISTING STAIRS	10	LINEAL FT.	1.00	10.00
6	DEMOLITION OF EXISTING DECK	100	SQ. FT.	1.50	150.00
7	DEMOLITION OF EXISTING BALCONY	100	SQ. FT.	1.50	150.00
8	DEMOLITION OF EXISTING UTILITY ROOM	100	SQ. FT.	1.50	150.00
9	DEMOLITION OF EXISTING LAUNDRY	100	SQ. FT.	1.50	150.00
10	DEMOLITION OF EXISTING KITCHEN	100	SQ. FT.	1.50	150.00
11	DEMOLITION OF EXISTING DINING ROOM	100	SQ. FT.	1.50	150.00
12	DEMOLITION OF EXISTING LIVING ROOM	100	SQ. FT.	1.50	150.00
13	DEMOLITION OF EXISTING MASTER BED ROOM	100	SQ. FT.	1.50	150.00
14	DEMOLITION OF EXISTING GALLERY	100	SQ. FT.	1.50	150.00
15	DEMOLITION OF EXISTING FOYER	100	SQ. FT.	1.50	150.00
16	DEMOLITION OF EXISTING 2-CAR GARAGE	100	SQ. FT.	1.50	150.00
17	DEMOLITION OF EXISTING WALK-IN CLOSET	100	SQ. FT.	1.50	150.00
18	DEMOLITION OF EXISTING STORAGE	100	SQ. FT.	1.50	150.00
19	DEMOLITION OF EXISTING PLANTERS	100	SQ. FT.	1.50	150.00
20	DEMOLITION OF EXISTING FOUNTAIN	100	SQ. FT.	1.50	150.00
21	DEMOLITION OF EXISTING PREVIOUSLY CONFORMING STRUCTURE	100	SQ. FT.	1.50	150.00
22	DEMOLITION OF EXISTING OUTLINE OF REMAINING BALCONY	100	SQ. FT.	1.50	150.00
23	DEMOLITION OF EXISTING REMAINING DECK BOUNDARY	100	SQ. FT.	1.50	150.00
24	DEMOLITION OF EXISTING (R) DECK (TO BE REMOVED)	100	SQ. FT.	1.50	150.00
25	DEMOLITION OF EXISTING (R) STAIRS (TO BE REMOVED)	10	LINEAL FT.	1.00	10.00
26	DEMOLITION OF EXISTING WALK-IN CLOSET	100	SQ. FT.	1.50	150.00
27	DEMOLITION OF EXISTING STORAGE	100	SQ. FT.	1.50	150.00
28	DEMOLITION OF EXISTING PLANTERS	100	SQ. FT.	1.50	150.00
29	DEMOLITION OF EXISTING FOUNTAIN	100	SQ. FT.	1.50	150.00
30	DEMOLITION OF EXISTING PREVIOUSLY CONFORMING STRUCTURE	100	SQ. FT.	1.50	150.00
31	DEMOLITION OF EXISTING OUTLINE OF REMAINING BALCONY	100	SQ. FT.	1.50	150.00
32	DEMOLITION OF EXISTING REMAINING DECK BOUNDARY	100	SQ. FT.	1.50	150.00
33	DEMOLITION OF EXISTING (R) DECK (TO BE REMOVED)	100	SQ. FT.	1.50	150.00
34	DEMOLITION OF EXISTING (R) STAIRS (TO BE REMOVED)	10	LINEAL FT.	1.00	10.00
35	DEMOLITION OF EXISTING WALK-IN CLOSET	100	SQ. FT.	1.50	150.00
36	DEMOLITION OF EXISTING STORAGE	100	SQ. FT.	1.50	150.00
37	DEMOLITION OF EXISTING PLANTERS	100	SQ. FT.	1.50	150.00
38	DEMOLITION OF EXISTING FOUNTAIN	100	SQ. FT.	1.50	150.00
39	DEMOLITION OF EXISTING PREVIOUSLY CONFORMING STRUCTURE	100	SQ. FT.	1.50	150.00
40	DEMOLITION OF EXISTING OUTLINE OF REMAINING BALCONY	100	SQ. FT.	1.50	150.00
41	DEMOLITION OF EXISTING REMAINING DECK BOUNDARY	100	SQ. FT.	1.50	150.00
42	DEMOLITION OF EXISTING (R) DECK (TO BE REMOVED)	100	SQ. FT.	1.50	150.00
43	DEMOLITION OF EXISTING (R) STAIRS (TO BE REMOVED)	10	LINEAL FT.	1.00	10.00
44	DEMOLITION OF EXISTING WALK-IN CLOSET	100	SQ. FT.	1.50	150.00
45	DEMOLITION OF EXISTING STORAGE	100	SQ. FT.	1.50	150.00
46	DEMOLITION OF EXISTING PLANTERS	100	SQ. FT.	1.50	150.00
47	DEMOLITION OF EXISTING FOUNTAIN	100	SQ. FT.	1.50	150.00
48	DEMOLITION OF EXISTING PREVIOUSLY CONFORMING STRUCTURE	100	SQ. FT.	1.50	150.00
49	DEMOLITION OF EXISTING OUTLINE OF REMAINING BALCONY	100	SQ. FT.	1.50	150.00
50	DEMOLITION OF EXISTING REMAINING DECK BOUNDARY	100	SQ. FT.	1.50	150.00
51	DEMOLITION OF EXISTING (R) DECK (TO BE REMOVED)	100	SQ. FT.	1.50	150.00
52	DEMOLITION OF EXISTING (R) STAIRS (TO BE REMOVED)	10	LINEAL FT.	1.00	10.00
53	DEMOLITION OF EXISTING WALK-IN CLOSET	100	SQ. FT.	1.50	150.00
54	DEMOLITION OF EXISTING STORAGE	100	SQ. FT.	1.50	150.00
55	DEMOLITION OF EXISTING PLANTERS	100	SQ. FT.	1.50	150.00
56	DEMOLITION OF EXISTING FOUNTAIN	100	SQ. FT.	1.50	150.00
57	DEMOLITION OF EXISTING PREVIOUSLY CONFORMING STRUCTURE	100	SQ. FT.	1.50	150.00
58	DEMOLITION OF EXISTING OUTLINE OF REMAINING BALCONY	100	SQ. FT.	1.50	150.00
59	DEMOLITION OF EXISTING REMAINING DECK BOUNDARY	100	SQ. FT.	1.50	150.00
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62	DEMOLITION OF EXISTING WALK-IN CLOSET	100	SQ. FT.	1.50	150.00
63	DEMOLITION OF EXISTING STORAGE	100	SQ. FT.	1.50	150.00
64	DEMOLITION OF EXISTING PLANTERS	100	SQ. FT.	1.50	150.00
65	DEMOLITION OF EXISTING FOUNTAIN	100	SQ. FT.	1.50	150.00
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71	DEMOLITION OF EXISTING WALK-IN CLOSET	100	SQ. FT.	1.50	150.00
72	DEMOLITION OF EXISTING STORAGE	100	SQ. FT.	1.50	150.00
73	DEMOLITION OF EXISTING PLANTERS	100	SQ. FT.	1.50	150.00
74	DEMOLITION OF EXISTING FOUNTAIN	100	SQ. FT.	1.50	150.00
75	DEMOLITION OF EXISTING PREVIOUSLY CONFORMING STRUCTURE	100	SQ. FT.	1.50	150.00
76	DEMOLITION OF EXISTING OUTLINE OF REMAINING BALCONY	100	SQ. FT.	1.50	150.00
77	DEMOLITION OF EXISTING REMAINING DECK BOUNDARY	100	SQ. FT.	1.50	150.00
78	DEMOLITION OF EXISTING (R) DECK (TO BE REMOVED)	100	SQ. FT.	1.50	150.00
79	DEMOLITION OF EXISTING (R) STAIRS (TO BE REMOVED)	10	LINEAL FT.	1.00	10.00
80	DEMOLITION OF EXISTING WALK-IN CLOSET	100	SQ. FT.	1.50	150.00
81	DEMOLITION OF EXISTING STORAGE	100	SQ. FT.	1.50	150.00
82	DEMOLITION OF EXISTING PLANTERS	100	SQ. FT.	1.50	150.00
83	DEMOLITION OF EXISTING FOUNTAIN	100	SQ. FT.	1.50	150.00
84	DEMOLITION OF EXISTING PREVIOUSLY CONFORMING STRUCTURE	100	SQ. FT.	1.50	150.00
85	DEMOLITION OF EXISTING OUTLINE OF REMAINING BALCONY	100	SQ. FT.	1.50	150.00
86	DEMOLITION OF EXISTING REMAINING DECK BOUNDARY	100	SQ. FT.	1.50	150.00
87	DEMOLITION OF EXISTING (R) DECK (TO BE REMOVED)	100	SQ. FT.	1.50	150.00
88	DEMOLITION OF EXISTING (R) STAIRS (TO BE REMOVED)	10	LINEAL FT.	1.00	10.00
89	DEMOLITION OF EXISTING WALK-IN CLOSET	100	SQ. FT.	1.50	150.00
90	DEMOLITION OF EXISTING STORAGE	100	SQ. FT.	1.50	150.00
91	DEMOLITION OF EXISTING PLANTERS	100	SQ. FT.	1.50	150.00
92	DEMOLITION OF EXISTING FOUNTAIN	100	SQ. FT.	1.50	150.00
93	DEMOLITION OF EXISTING PREVIOUSLY CONFORMING STRUCTURE	100	SQ. FT.	1.50	150.00
94	DEMOLITION OF EXISTING OUTLINE OF REMAINING BALCONY	100	SQ. FT.	1.50	150.00
95	DEMOLITION OF EXISTING REMAINING DECK BOUNDARY	100	SQ. FT.	1.50	150.00
96	DEMOLITION OF EXISTING (R) DECK (TO BE REMOVED)	100	SQ. FT.	1.50	150.00
97	DEMOLITION OF EXISTING (R) STAIRS (TO BE REMOVED)	10	LINEAL FT.	1.00	10.00
98	DEMOLITION OF EXISTING WALK-IN CLOSET	100	SQ. FT.	1.50	150.00
99	DEMOLITION OF EXISTING STORAGE	100	SQ. FT.	1.50	150.00
100	DEMOLITION OF EXISTING PLANTERS	100	SQ. FT.	1.50	150.00



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 Suite 110  
 La Jolla, CA 92037  
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 Fax. (858) 459-3768  
 Michael Morton AIA  
 Claude Anthony Marengo D.D.S.



10 years, state and congressional to fulfill  
 the requirements of the California State Board of  
 Engineers, Architects and Surveyors. The  
 seal is valid only when the holder is a duly  
 licensed professional engineer or architect.  
 It is the holder's duty to keep the seal in  
 proper custody and to use it only for the  
 purpose for which it was issued. The  
 seal is not to be used for any other  
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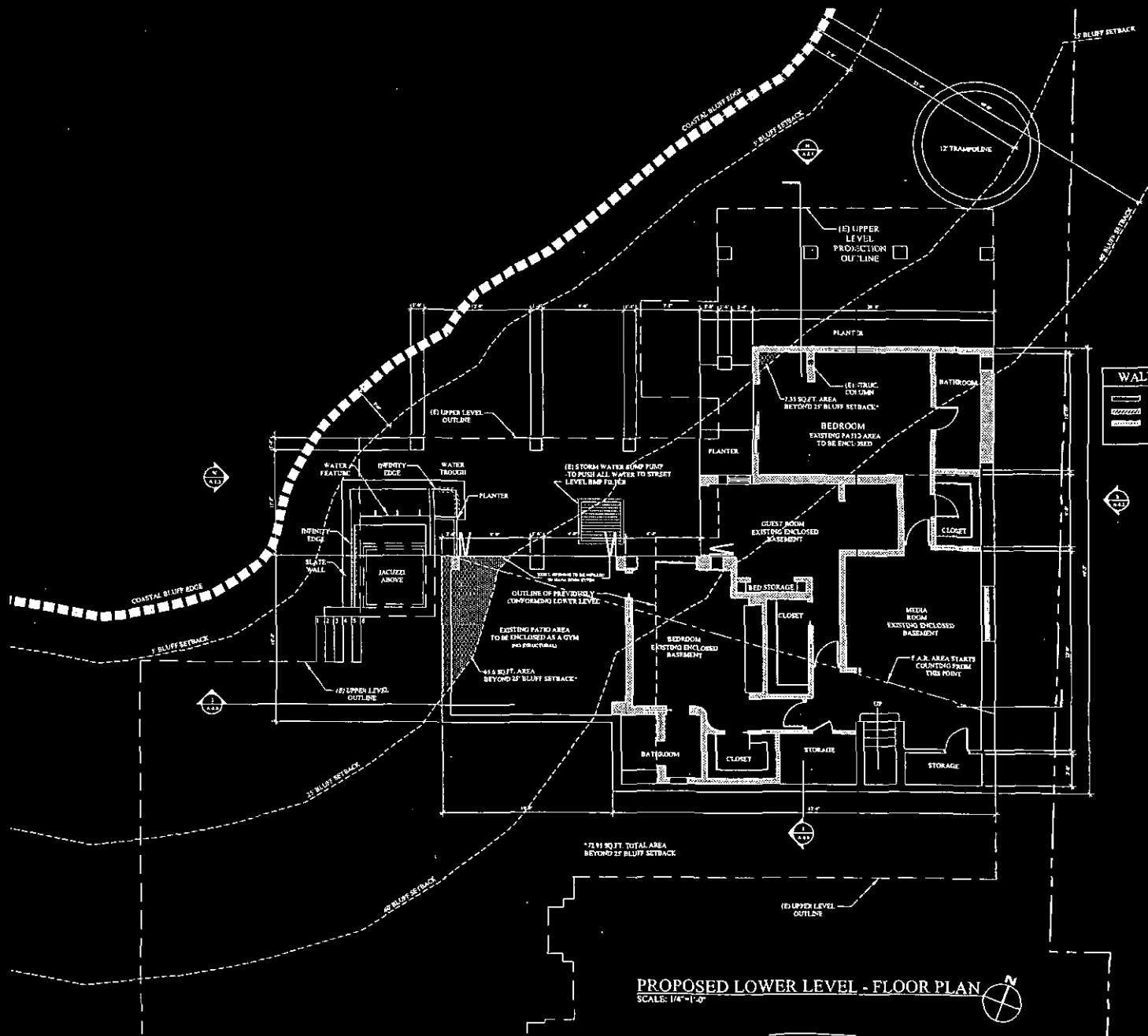
**KRETOWICZ RESIDENCE**  
 7957 PRINCESS ST.  
 LA JOLLA, CA 92037

APPROVED BY: [Signature]  
 PROJECT: KRETOWICZ RESIDENCE  
 150001 KRETOWICZ RESIDENCE  
 01/15/08 150001 KRETOWICZ RESIDENCE

**COASTAL DOCUMENTS**  
 PROJECT: 2006-01  
 DRAWING: CAM  
 SHEET: LB  
 DATE: 01-15-08

UPPER LEVEL  
 DEMOLITION PLANS  
**A-1.3**  
 SHEET 11 OF 22





# **Marengo Morton Architects**

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Tel: (858) 459-3769  
Fax: (858) 459-3768  
Michael Morton AIA  
Claude Anthony Morton O.A.A.



1. I, Michael Morton, do hereby certify that I am a duly Licensed Architect in the State of California, and that I am the author of the design and construction documents for the project described herein. I am not aware of any other person who has contributed to the design or construction of the project. I am not aware of any other person who has contributed to the design or construction of the project. I am not aware of any other person who has contributed to the design or construction of the project.

## **KRETOWICZ RESIDENCE**

7957 PRINCESS ST.  
LA JOLLA, CA 92037

APPROVED BY THE COUNTY OF SAN DIEGO  
15/01/2007  
COUNTY OF SAN DIEGO

**COASTAL DOCUMENTS**

DATE: 2006-07

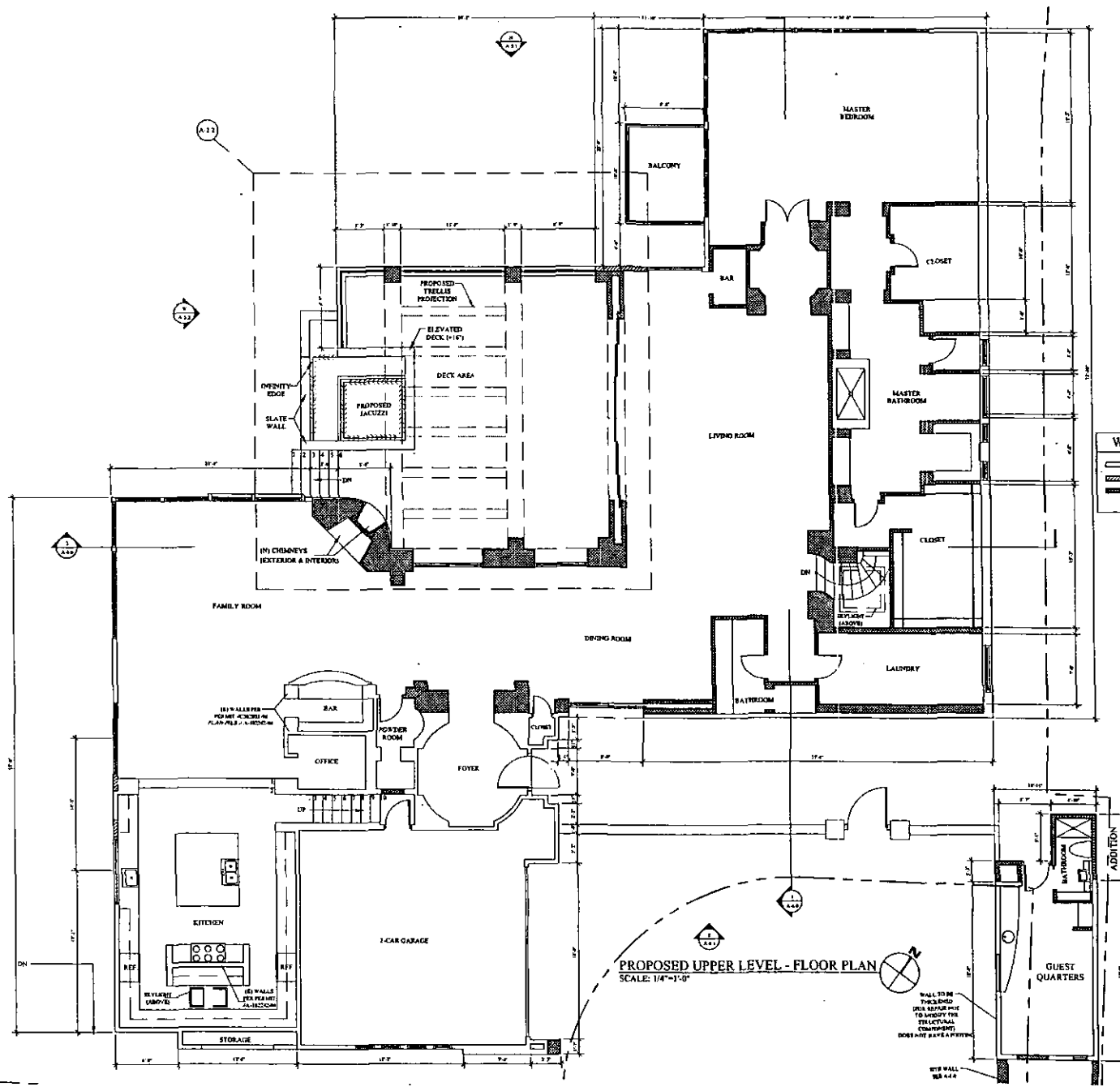
DATE: 07-15-06


PROJECT: KRETOWICZ RESIDENCE  
SHEET: 14 OF 22

PROPOSED LOWER LEVEL FLOOR PLAN  
A-2.0


SHEET 14 OF 22







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Tel. (858) 459-3769  
Fax. (858) 459-3768  
Michael Morton AIA  
Claude Anthony Morton D. AS



As a duly licensed architect, I hereby certify that I am the author of the design and construction documents herein, and that I am a duly licensed architect in the State of California. I am not aware of any other person who has contributed to the preparation of these documents.

**KRETOWICZ RESIDENCE**  
7957 PRINCESS ST.  
LA JOLLA, CA 92037

PROJECT NO. 98-0001  
100/2000 100 City Council Submittal  
131/0000 100 City Council Submittal  
830/0000 100 City Council Submittal

**COASTAL DOCUMENTS**

DATE: 2000-01

REVISION: 01

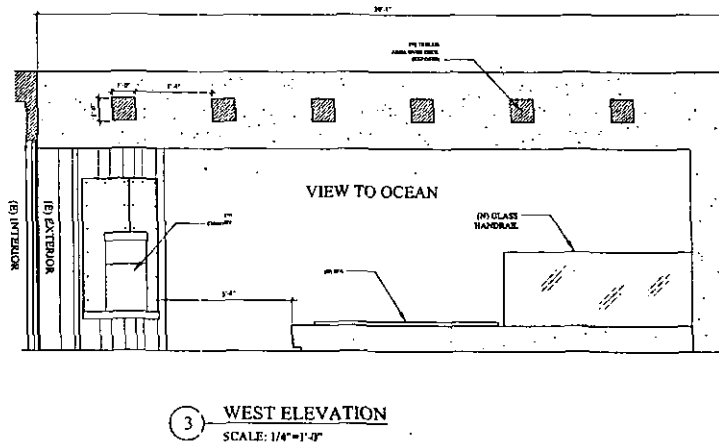
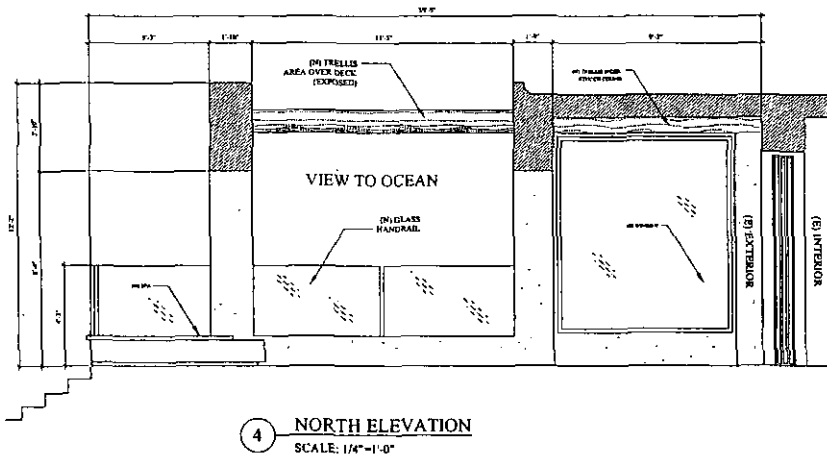
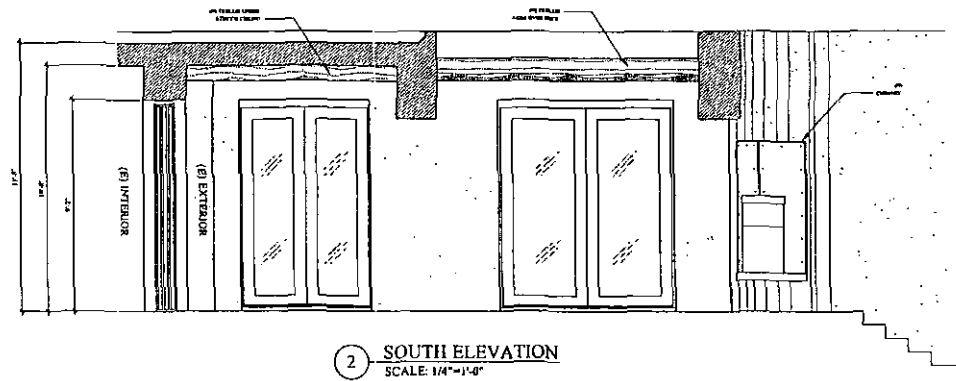
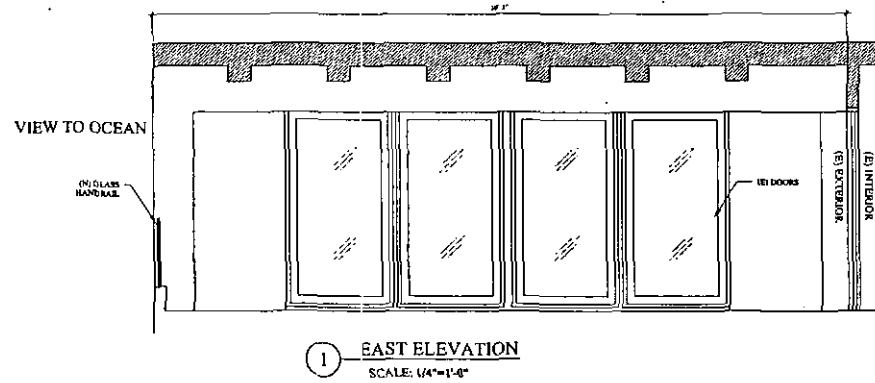
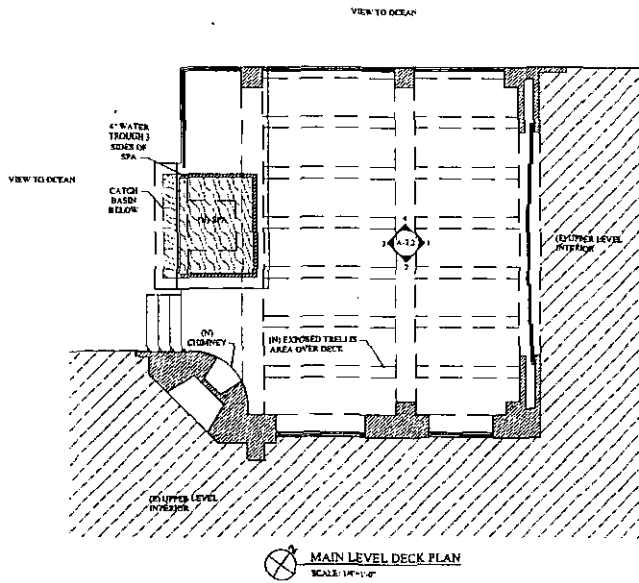
SCALE: 1/4"=1'-0"

DATE: 07-15-00

**PROPOSED UPPER LEVEL FLOOR PLAN**  
A-2.1

SHEET 15 OF 23





# Marengo Morton Architects

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Michael Morton AIA  
Claudia Anthony Marengo OAA



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## KRETOWICZ RESIDENCE

7937 PRINCESS ST.  
LA JOLLA, CA 92037

10/24/00 EDC-City Council Submittal  
12/14/02 EDC-City Council Submittal  
03/07/04 EDC-City Council Submittal

COASTAL DOCUMENTS

PROJECT NO. 2000-01

DATE: 07-15-01

SCALE: 1/4"=1'-0"

SHEET 18 OF 12

SPA PLAN & ELEVATIONS  
A-2.2





SHEET 19 OF 22



SCALE: 1/8"=1'-0"

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100

11.016 11.016 100% of all cases will be

SAJZ TYP.



002524

**M**

**Marengo Morton Architects**  
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 Michael Morton AIA  
 Claude Kathryn Marengo D. Arch.

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 7937 PRINCESS ST.  
 LA JOLLA, CA 92037

PROJECT: 021047 KP City Center Substation  
 131 MT MEED Meeting Schedule  
 021049 KP City Center Substation

FROM: COASTAL DOCUMENTS

PROJECT NO: 2006.A5

DATE: 04-07

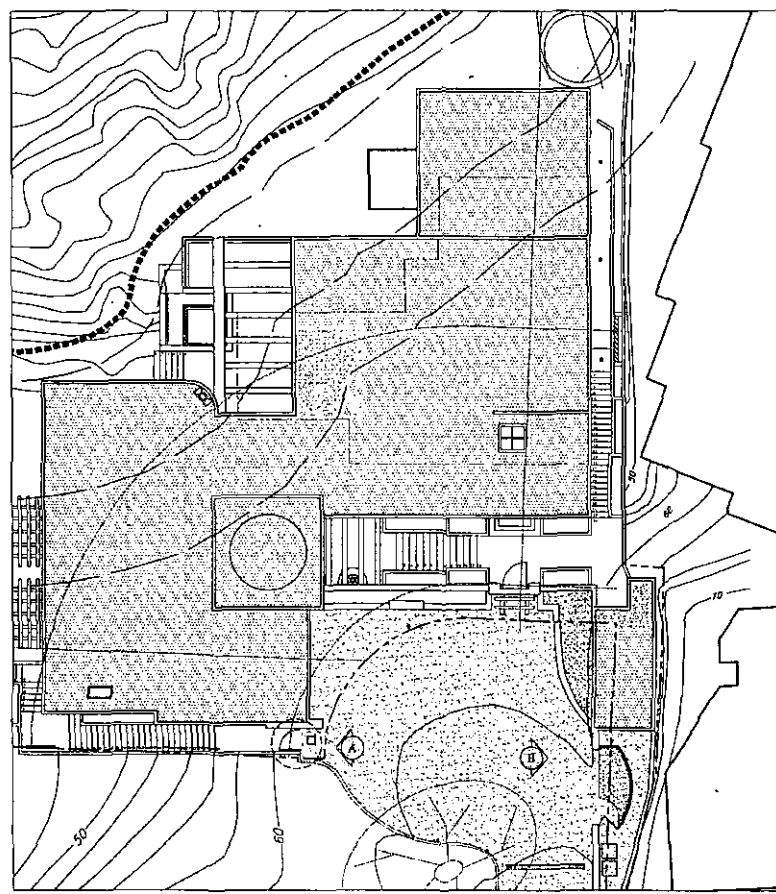
BY: CAM

REVISION: 1B

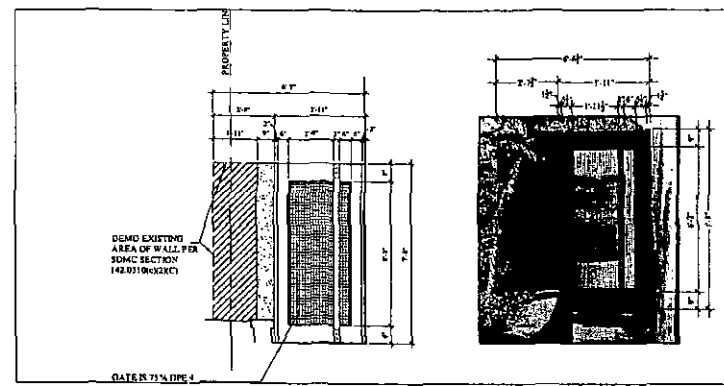
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SITE ELEVATIONS  
**A-5.0**  
 SHEET 18 OF 22

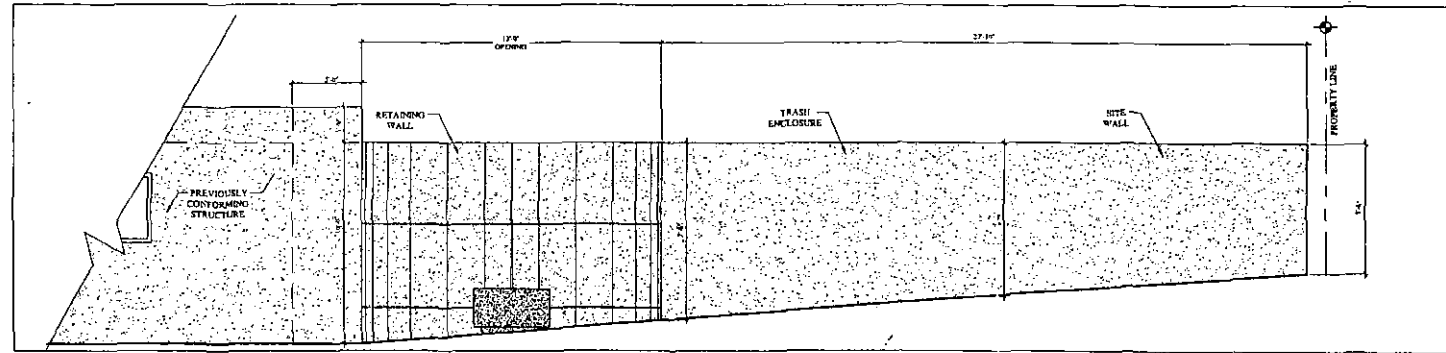
ATTACHMENT 13



**PARTIAL SITE PLAN**  
 SCALE: 1/8" = 1'-0"



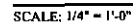
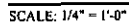
**A GATE/FENCE ELEVATION & PHOTO**  
 SCALE: 1/8" = 1'-0"



**B SITE WALL EAST ELEVATION**  
 SCALE: 1/8" = 1'-0"

3-10-08 Revision of Site Plan and Elevation Documents (021047, 021049, 021050, 021051, 021052, 021053, 021054, 021055, 021056, 021057, 021058, 021059, 021060, 021061, 021062, 021063, 021064, 021065, 021066, 021067, 021068, 021069, 021070, 021071, 021072, 021073, 021074, 021075, 021076, 021077, 021078, 021079, 021080, 021081, 021082, 021083, 021084, 021085, 021086, 021087, 021088, 021089, 021090, 021091, 021092, 021093, 021094, 021095, 021096, 021097, 021098, 021099, 021100, 021101, 021102, 021103, 021104, 021105, 021106, 021107, 021108, 021109, 021110, 021111, 021112, 021113, 021114, 021115, 021116, 021117, 021118, 021119, 021120, 021121, 021122, 021123, 021124, 021125, 021126, 021127, 021128, 021129, 021130, 021131, 021132, 021133, 021134, 021135, 021136, 021137, 021138, 021139, 021140, 021141, 021142, 021143, 021144, 021145, 021146, 021147, 021148, 021149, 021150, 021151, 021152, 021153, 021154, 021155, 021156, 021157, 021158, 021159, 021160, 021161, 021162, 021163, 021164, 021165, 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7957 PRINCESS ST.  
LA JOLLA, CA 92037

01/10/87  
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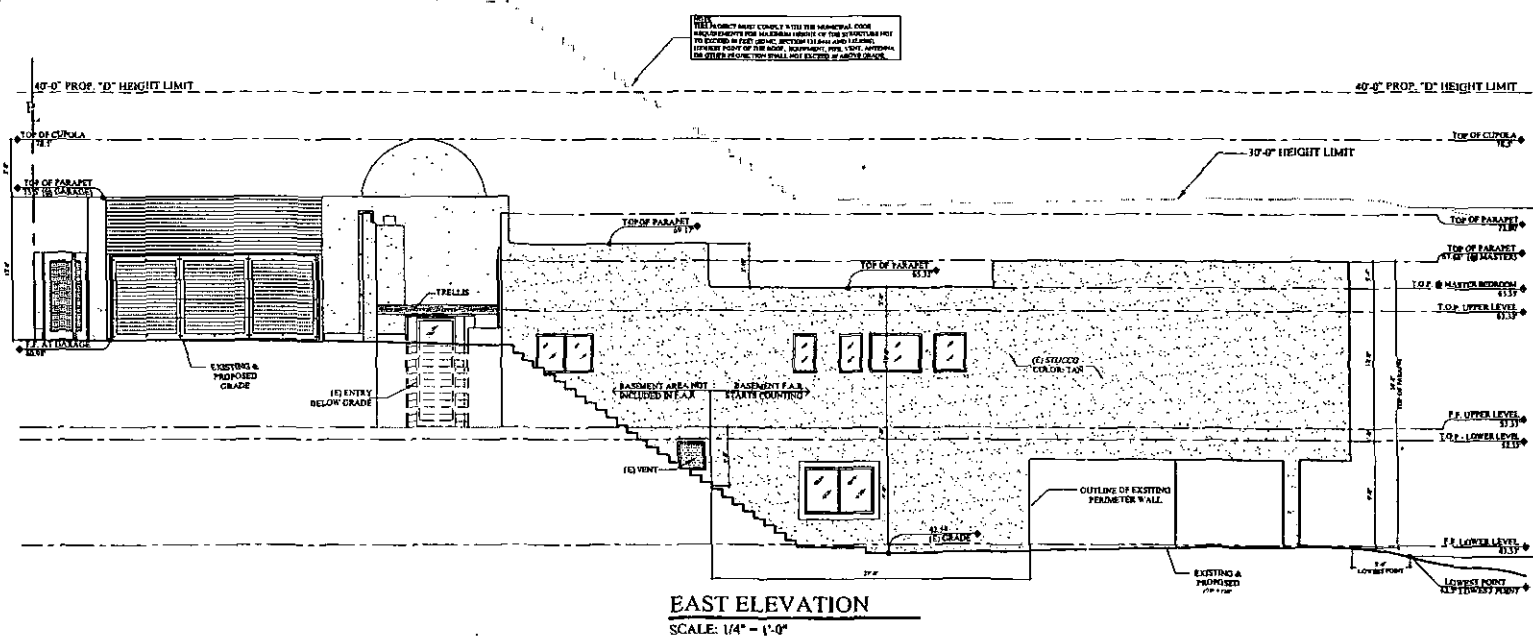
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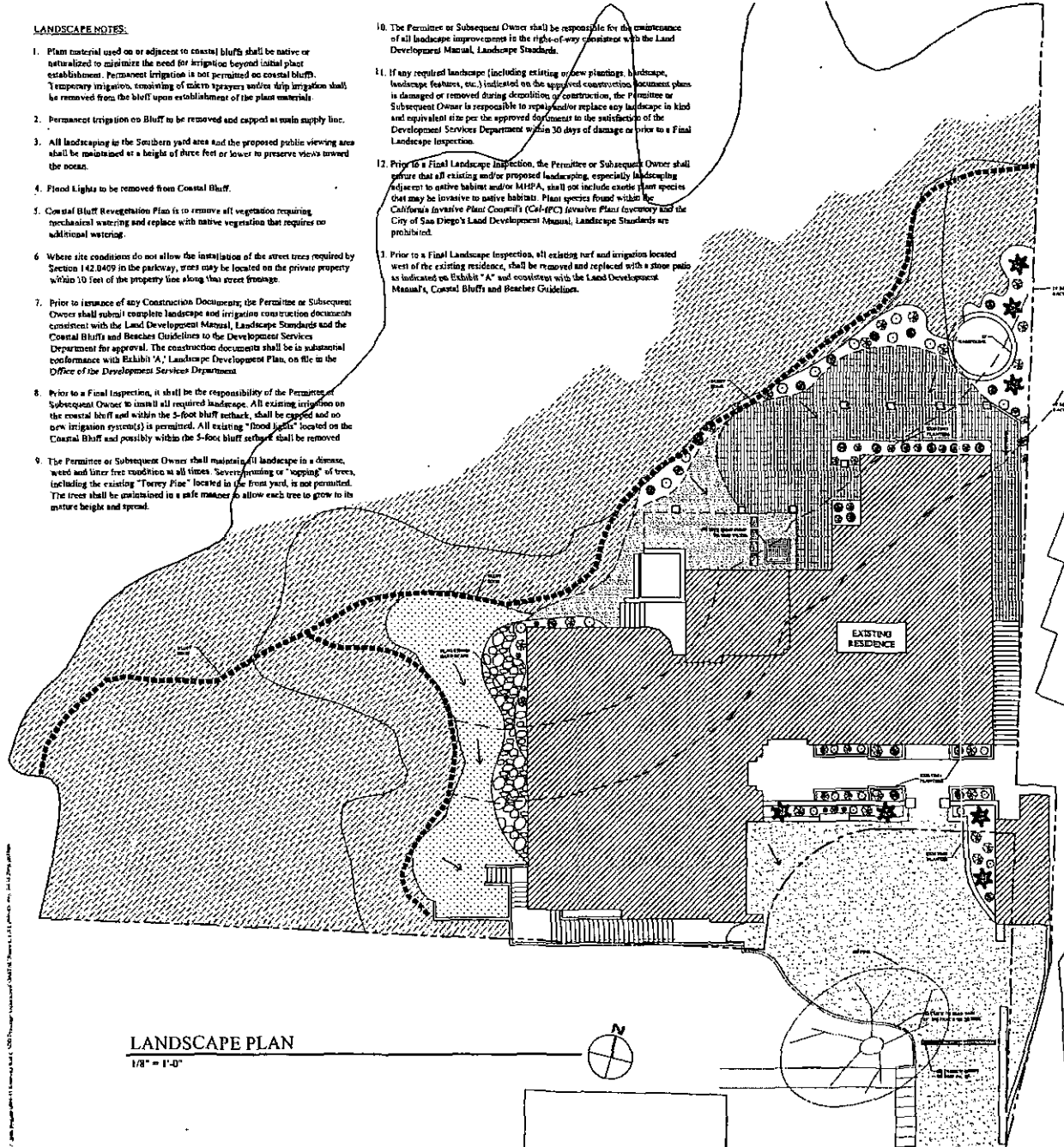






**LANDSCAPE NOTES:**

1. Plant material used on or adjacent to coastal bluffs shall be native or naturalized to minimize the need for irrigation beyond initial plant establishment. Permanent irrigation is not permitted on coastal bluffs. Temporary irrigation, consisting of sub-surface drip irrigation shall be removed from the bluff upon establishment of the plant material.
2. Permanent irrigation on Bluff to be removed and capped at main supply line.
3. All landscaping in the Southern yard area and the proposed public viewing area shall be maintained at a height of three feet or lower to preserve views toward the ocean.
4. Flood Lights to be removed from Coastal Bluff.
5. Coastal Bluff Revegetation Plan is to remove all vegetation requiring mechanical watering and replace with native vegetation that requires no additional watering.
6. Where site conditions do not allow the installation of the street trees required by Section 142.0409 in the parkway, trees may be located on the private property within 10 feet of the property line along that street frontage.
7. Prior to issuance of any Construction Documenting, the Permittee or Subsequent Owner shall submit complete landscape and irrigation construction documents consistent with the Land Development Manual, Landscape Standards and the Coastal Bluffs and Beaches Guidelines to the Development Services Department for approval. The construction documents shall be in substantial conformance with Exhibit 'A', Landscape Development Plan, on file in the Office of the Development Services Department.
8. Prior to a Final Inspection, it shall be the responsibility of the Permittee or Subsequent Owner to install all required landscape. All existing irrigation on the coastal bluff and within the 5-foot bluff setback, shall be capped and no new irrigation system(s) is permitted. All existing "flood lights" located on the Coastal Bluff and possibly within the 5-foot bluff setback shall be removed.
9. The Permittee or Subsequent Owner shall maintain all landscape in a disease, weed and insect free condition at all times. "Severing or topping" of trees, including the existing "Tweety Pine" located in the front yard, is not permitted. The trees shall be maintained in a safe manner to allow each tree to grow to its mature height and spread.
10. The Permittee or Subsequent Owner shall be responsible for the maintenance of all landscape improvements in the right-of-way consistent with the Land Development Manual, Landscape Standards.
11. If any required landscape (including existing or proposed plantings, landscape features, etc.) indicated on the approved construction documents is damaged or removed during demolition or construction, the Permittee or Subsequent Owner is responsible to replace or repair any landscape in kind and equivalent size per the approved documents to the satisfaction of the Development Services Department within 30 days of damage or prior to a Final Landscape Inspection.
12. Prior to a Final Landscape Inspection, the Permittee or Subsequent Owner shall ensure that all existing and/or proposed landscaping, especially landscaping adjacent to native habitat and/or MHPA, shall not include exotic plant species that may be invasive to native habitats. Plant species found within the California Invasive Plant Council's (Cal-IPC) Invasive Plant Inventory and the City of San Diego's Land Development Manual, Landscape Standards are prohibited.
13. Prior to a Final Landscape Inspection, all existing turf and irrigation located west of the existing residence, shall be removed and replaced with a stone patio as indicated on Exhibit "A" and consistent with the Land Development Manual's, Coastal Bluffs and Beaches Guidelines.



**EXISTING LANDSCAPE PALATE LEGEND**

**BROAD LEAF TREES**

- 6" DIA. PALM  
KING PALM - *Archontophoenix*  
8'-0" min. tall  
mature height: 40'; mature spread: 10'
- DWARF MAGNOLIA - in pot  
*Magnolia Kusa Dewos Hybrids* - "Little Girl"  
24 inch Box - Broadheaded  
mature height: 12'; mature spread 8'
- FICUS NITIDA - in pot  
*Silk Mang Avila* - "Silk Ficus Column"  
12 inch Box - Broadheaded  
mature height: 7'; mature spread 10'

**MEDIUM - LARGE SHRUBS**

- BIRD OF PARADISE (Dwarf)  
*Strelitzia Reginae* - 5 Gallon - upright  
mature height: 4'; mature spread: 4'
- YELLOW HIBISCUS (Dwarf Variety)  
*Hibiscus Sabdariffa* - 5 Gallon - Broadheaded  
mature spread: 8-12'; mature spread: 6'
- AGAPANTHUS AFRICANUS  
LILLY OF THE NILE - 3 Gal. - upright  
mature height: 3'; mature spread: 2'

**FLOWERING GROUND COVER**

- COOPER'S HARDY ICE PLANTS  
Temporary landscape, consisting of microperennials and or drip irrigation.

**GRASSY GROUND COVER**

- TURF GRASS  
To be replaced in future or interstitial plant materials or temporary landscape, consisting of microperennials and or drip irrigation.


**HARDSCAPE**

**Coastal Bluff Revegetation Plan**


**DROUGHT TOLERANT PLANTS**

- SEDUM SP (STONE CROP) - HEIGHT 24" MAX
- ACHILLEA (YARROW) - PERENNIAL FLOWER
- CERATU (SNOW IN SUMMER) - HEIGHT 6" MAX.

→ SURFACE DRAINAGE  
\* NOTE: All drainage from any unimproved areas shall be appropriately collected and discharged into existing drainage sump pump system in order to reduce, control, or mitigate erosion of coastal bluff.




**Marengo Morton Architects**  
3855 Ivanhoe Ave.  
Suite 110  
La Jolla, CA 92037  
Tel. (858) 459-3769  
Fax. (858) 459-3768  
Michael Marengo AIA  
Charles Anthony Marengo OAA



**KRETOWICZ RESIDENCE**  
7957 PRINCESS ST.  
LA JOLLA, CA 92037

PROJECT: 807 Ely Court, San Marcos  
12/01/01 MECA Planning Submittal  
8/01/02 EDC Court, No Submittal

  
**COASTAL DOCUMENTS**  
 PREPARED BY: 2006-11  
 DESIGNED BY: CAM  
 DRAWN BY: LRB  
 DATE: 07-15-08  
 SCALE: 1/8" = 1'-0"  
 SHEET: 12 OF 22  
 LANDSCAPE  
 L-1.0



**CALIFORNIA COASTAL COMMISSION**

SOUTH CENTRAL COAST AREA  
89 SOUTH CALIFORNIA ST., SUITE 200  
VENTURA, CA 93001  
(805) 641-0142



**NOTICE OF VIOLATION OF THE CALIFORNIA COASTAL ACT  
REGULAR AND CERTIFIED MAIL (Z 513 516 588)**

December 21, 2001

Ure Kretowicz  
7957 Princess Street  
La Jolla, CA 92037

Violation File Number: V-6-01-016

Property location: 7957 Princess Street, La Jolla, City of San Diego; San Diego County

Unpermitted Development: (1) Grading, vegetation removal, and construction of a wall on a bluff face.  
(2) Removal and demolition of existing unpermitted structures and improvements located on, or on top of, the steep bluff slope including timber stairs, retaining walls, palm trees, and a concrete patio.  
(3) Failure to record a public vertical access easement to the beach from Princess Street as required by Special Condition B of Coastal Development Permit A-133-79.

Dear Mr. Kretowicz:

As discussed during my conversation with your agent, Mr. Mathew Peterson, on December 17, 2001, our staff observed construction workers actively engaged in grading, vegetation removal, and construction of a wall on your property at 7957 Princess Street in La Jolla, on the morning of that same date. As I informed Mr. Peterson, grading, vegetation removal, and the placement of any structure constitutes development pursuant to the Coastal Act and requires a Coastal Development Permit. I also informed Mr. Peterson that a valid Coastal Development Permit has not been issued for any grading, vegetation removal, or any other construction activity on your property, which is located within the Coastal Zone. Therefore, please immediately stop all work on your property until you have obtained a valid Coastal Development Permit to authorize such development. Please be aware that any further development on your property, including grading, vegetation removal, construction of a wall, or any other construction activity, will be considered a knowing and intentional violation of the Coastal Act.

In addition, as stated in the Commission staff report dated September 9, 2001, that was prepared for the appeal (Appeal A-6-LJS-01-095) of the City of San Diego's approval of your proposed project for the *removal of unpermitted improvements on face of coastal bluff and construction of pool with spa, concrete deck, retaining walls, drains, landscaping and dedication of an*



*emergency access easement along southern edge of 1.31 acre blufftop lot*, our staff has confirmed that other unpermitted development has previously occurred on the above referenced property consisting of the unpermitted removal and demolition of existing unpermitted structures and improvements on, or on top of, the steep bluff slope on your property including wooden timber stairs, retaining walls, palm trees, and a concrete patio. In addition, as also stated in the staff report for Appeal A-6-LJS-01-095, the failure to record the required public access easement on your property as required by Special Condition B of Coastal Development Permit (CDP) A-133-79 also constitutes a violation of the Coastal Act. Pursuant to Section 30600 (a) of the Coastal Act, any person wishing to perform or undertake development in the Coastal Zone must obtain a Coastal Development Permit, in addition to any other permit required by law. "Development" is defined by Section 30106 of the Coastal Act as:

*"Development" means, on land, in or under water, the placement or erection of any solid material or structure; discharge or disposal of any dredged material or any gaseous, liquid, solid, or thermal waste; grading, removing, dredging, mining, or extraction of any materials; change in the density or intensity of the use of land, including, but not limited to, subdivision pursuant to the Subdivision Map Act (commencing with Section 66410 of the Government Code), and any other division of land, including lot splits, except where the land division is brought about in connection with the purchase of such land by a public agency for public recreational use; change in the intensity of water, or of access thereto; construction, reconstruction, demolition, or alteration of the size of any structure, including any facility of any private, public, or municipal utility; and the removal or harvest of major vegetation other than for agricultural purposes, kelp harvesting, and timber operations....*

The above mentioned unpermitted grading, vegetation removal, and construction of a wall which staff observed occurring on site on December 17, 2001, and the unpermitted previously completed removal and demolition of existing unpermitted improvements on, or on top of, the steep bluff slope on your property including wooden timber stairs, retaining walls, palm trees, and a concrete patio constitute development under the Coastal Act and, therefore, requires a Coastal Development Permit. Any development activity conducted in the Coastal Zone without a valid Coastal Development Permit constitutes a violation of the Coastal Act. All work must stop immediately in order to avoid further enforcement action. Any additional work that is completed will constitute a knowing and intentional violation that may result in fines and penalties.

Our records indicate that the City of San Diego approved Coastal Development Permit SCR/CDP 96-7148 on June 5, 2001, for *removal of unpermitted improvements on face of coastal bluff and construction of pool with spa, concrete deck, retaining walls, drains, landscaping and dedication of an emergency access easement along southern edge of 1.31 acre blufftop lot containing a single family residence*. On June 25, 2001, the City's approval of that permit was appealed to the California Coastal Commission. The Commission found that the City's approval of CDP SCR/CDP 96-7148 raised substantial issue with the policies of the certified Local Coastal Program and scheduled a de novo permit hearing for your proposed project for the October 2001 Commission meeting. A staff report for the denovo hearing was prepared. However, at your request, the hearing was postponed.

In most cases, violations involving unpermitted development may be resolved administratively by removal of the unpermitted development and restoration of any damaged resources or by obtaining a Coastal Development Permit authorizing the development after-the-fact. Removal of



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Page 3

the development and restoration of the site also requires a Coastal Development Permit. Based on my conversation with Mr. Peterson, it is our understanding the above referenced grading, vegetation removal, and wall which our staff observed being undertaken on your property on December 17, 2001 is not related to your pending denovo CDP application with the Commission. If the recent grading, vegetation removal, and construction of a wall are not related to your pending application, then in order to resolve this matter administratively, you must submit a complete Coastal Development Permit Application to the City of San Diego to either retain the development, or to remove the unpermitted development and restore the site to its previous condition. However, if the above referenced recent grading, vegetation removal, and construction of a wall on site are related to the development proposed as part of your pending de novo CDP Application A-6-LJS-01-095, then you must amend your pending de novo permit application to address the unpermitted development.

We hope that you will choose to cooperate in resolving this violation by ceasing all ongoing development activities on site, including grading and vegetation removal activities and submitting a permit application by January 28, 2002. If you do not, we will consider pursuing additional enforcement action against you. You should be aware that the Coastal Act contains many enforcement remedies for Coastal Act violations. Coastal Act section 30809 states that if the Executive Director determines that any person has undertaken, or is threatening to undertake development activity that (1) may require a permit from the Commission without securing a permit, or (2) may be inconsistent with any permit previously issued by the Commission, the Executive Director may issue an order directing that person to cease and desist. Section 30810 states that the Commission may also issue a cease and desist order. A cease and desist order may be subject to terms and conditions that are necessary to avoid irreparable injury to the area or to ensure compliance with the Coastal Act. A violation of a cease and desist order can result in civil fines of up to \$6,000 for each day in which the violation persists. Moreover, section 30811 authorizes the Commission to order restoration of a site where development occurred without a CDP, is inconsistent with the Coastal Act, and is causing continuing resource damage.

Coastal Act Sections 30803 and 30805 authorize the Commission to initiate litigation to seek injunctive relief and an award of civil fines in response to any violation of the Coastal Act. Section 30820(a)(1) of the Coastal Act provides that any person who violates any provision of the Coastal Act may be subject to a penalty amount not to exceed \$30,000. Coastal Act section 30820(a)(2) states that, in addition to any other penalties, any person who "knowingly and intentionally" performs any development in violation of the Coastal Act can be subject to a civil penalty of not less than \$1,000 or more than \$15,000 for each day in which the violation persists.

In order to resolve this matter in a timely manner and avoid the possibility of a monetary penalty or fine, we are requesting that you: (1) stop all work on site immediately and (2) submit either a complete Coastal Development Permit Application to the City of San Diego or amend your pending denovo CDP application with the Commission by **January 30, 2002**, for either removal of the unpermitted development and restoration of the site or to authorize the as-built development. Please contact me by no later than **January 4, 2002**, regarding how you intend to resolve this violation.



002532

Page 4

Thank you for your attention to this matter. If you have any questions regarding this letter or the pending enforcement case, please feel free to contact me.

Sincerely,

Marsha Venegas  
Enforcement Officer

cc: Steve Hudson, Enforcement Supervisor, Southern Districts, CCC  
Sherilyn Sarb, District Manager, San Diego District, CCC  
Lee McEachern, Supervisor, San Diego District, CCC  
Tina Sanchez, Neighborhood Code Compliance, City of San Diego  
Matthew Peterson, Peterson & Price



002523

17:06

From-PETERSON &amp; PRICE, APC

619-239-5873

T-585 P.02/03 F-138

**PETERSON & PRICE**  
A PROFESSIONAL CORPORATION

EDWARD F. WHITTIER  
MARSHALA A. SCARR  
MATTHEW A. PETERSON  
LARRY N. MURNANE  
CHRISTOPHER J. CONNOLLY  
KELLY A. GRALEWSKI  
VICTORIA E. ADAMS  
ERIC J. PROSSER

OF COUNSEL  
PAULA A. PETERSON

**LAWYERS**

Union Bank of California Building  
530 "B" Street, Suite 1700  
San Diego, California 92101-4454  
Telephone (619) 234-0361  
Fax (619) 234-4786

Carlsbad Office

703 Palomar Airport Road  
Suite 200  
Carlsbad, California 92009-1042  
Telephone (760) 929-1920  
Fax (760) 929-2206

File No.  
5548.003

VIA FACSIMILE & U.S. MAIL

January 4, 2002

Ms. Marsha Venegas  
Enforcement Officer  
California Coastal Commission  
45 Fremont St., Suite 2000  
San Francisco, CA 94105-2219

Re: 7957 Princess St., La Jolla, CA

Dear Ms. Venegas:

As I indicated to you on voice mail and in our discussions before the Holiday break, our client did not proceed with the project that is currently the subject of Appeal No. A-6-LJS-01-095. He did undertake some yard work and has installed a retaining wall to put in a patio, lawn and landscaping improvements.

You had requested that we contact you by no later than January 4, 2002 to describe how our client intends to resolve the matter. To the extent that the City of San Diego requires that a coastal permit be processed, our client will file an application to authorize the development "after the fact". With regard to CDP Application No. A-6-LJS-01-095, our client is still in the process of evaluating Coastal Commission Staff recommendation to relocate the pool and spa from the westerly portion of the property to the more northerly portion of the property.



Jan-04-02 17:06

From-PETERSON & PRICE, APC

619-239-5873

T-585 P 03/03 F-138

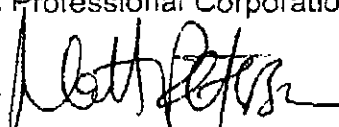
002534

Ms. Marsha Venegas  
Enforcement Officer  
California Coastal Commission  
January 4, 2002  
Page 2

Should you have any questions regarding this, please don't hesitate to call.

Sincerely,

PETERSON & PRICE  
A Professional Corporation



Matthew A. Peterson

cc: Tina Sanchez, Zoning Investigator, Nbhd Services Division - Nbhd Code  
Compliance, City of San Diego.

Ure and Diane Kretowicz



002535

**F I L E D**  
Clerk of the Superior Court

APR 14 2004

By: A. ESPINOSA-BARRON, Deputy

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SAN DIEGO

THE CITY OF SAN DIEGO, a municipal  
corporation,

Plaintiff;

v.

URE RICHARD KRETOWICZ, individually  
and as Trustee of the Princess Trust Dated  
May 13, 1993; DIANNE MERRIE  
KRETOWICZ, individually and as Trustee of  
the Princess Trust Dated May 13, 1993; and  
DOES I through XX, inclusive,

Defendants.

Case No. GIC 828344

STIPULATION IN FULL SETTLEMENT  
FOR FINAL JUDGMENT OF  
PERMANENT INJUNCTION;  
JUDGMENT THEREON  
[CCP §664.6]

Plaintiff, the City of San Diego, a municipal corporation, appearing through its attorney,  
Casey Gwinn, City Attorney, by Michael D. Neumeyer, Deputy City Attorney, and Defendants, Ure  
Richard Kretowicz, individually and as Trustee of the Princess Trust dated May 13, 1993, and  
Dianne Merrie Kretowicz, individually and as Trustee of the Princess Trust dated May 13, 1993, by  
and through their attorney, Matthew A. Peterson, enter into the following agreement in full and final  
settlement of the above-captioned case without trial or adjudication of any issue of fact or law, and  
agree that final judgment may be so entered.



2. The Parties to this Stipulated Judgment are Parties to a civil suit pending in the Superior Court of the State of California for the County of San Diego, entitled: *The City of San Diego, a municipal corporation, Plaintiff, v. Ure Richard Kretowicz, individually and as Trustee of the Princess Trust dated May 13, 1993; Dianne Merrie Kretowicz, individually and as Trustee of the Princess Trust dated May 13, 1993; and DOES I through XX, inclusive, Defendants*, Civil Case No. GIC

4. This action is brought under California law, and this Court has jurisdiction of its subject matter and the Parties.

Regarding the three parcels of land located at 7957 Princess Street, in the City of San Diego, County of San Diego, State of California, Assessor Parcel Nos. 350-151-01, 350-151-02, and 346-440-12, hereinafter, the "PROPERTY":

• • • • •



1 a) Maintaining, using, or undertaking any coastal development on the  
2 PROPERTY without a Coastal Development Permit (if such a permit is required for the use or  
3 development), or maintaining, using, or developing the PROPERTY contrary to the requirements or  
4 conditions of an existing Coastal Development Permit (or existing amendment to said permit) issued  
5 by the City of San Diego, in violation of San Diego Municipal Code section 126.0723;

6 b) Beginning any development at the PROPERTY (due to the presence of  
7 Environmentally Sensitive Lands thereon), without first submitting required documentation and  
8 obtaining a Site Development Permit, in violation of San Diego Municipal Code section 143.0112;

9 c) Conducting any grading work at the PROPERTY, without first obtaining the  
10 required Grading Permit, in violation of San Diego Municipal Code section 129.0602;

11 d) Erecting, constructing, enlarging, altering, repairing, improving, converting,  
12 permanently relocating, or partially demolishing any structure on the PROPERTY, without first  
13 obtaining a separate Building Permit for each structure from the Building Official (if such a permit is  
14 required for the work), in violation of San Diego Municipal Code section 129.0202(a);

15 e) Maintaining or using the PROPERTY in violation of any of the provisions of  
16 the Land Development Code, without a required permit, or contrary to permit conditions, in violation  
17 of San Diego Municipal Code section 121.0302(a);

18 f) Maintaining any violation of the San Diego Municipal Code at the  
19 PROPERTY, or any other property owned or occupied by Defendants, individually or collectively,  
20 within the City of San Diego.

21 6. Within 60 days from the date of this Stipulated Judgment, Defendants shall  
22 submit a complete set of plans (including all necessary drawings, reports, calculations, and fees) to  
23 the California Coastal Commission ("CCC"), for the purpose of obtaining an amendment to the  
24 previously-issued Coastal Development Permit for the PROPERTY (CDP No. F6760 and F6760-A),  
25 said amendment to address all previously unpermitted and future proposed grading, clearing,  
26 grubbing, excavating, filling, and/or development on the PROPERTY, related to each of the  
27 following:  
28 . . . . .



002538

- 1 a) Excavation for, and construction of, the proposed subterranean carport and  
2 garage improvement;
- 3 b) The retaining wall in the southern portion of the rear yard;
- 4 c) The concrete steps adjacent to said retaining wall;
- 5 d) The previous back-filling and leveling adjacent to said retaining wall;
- 6 e) The previous removal of vegetation (native or non-native) adjacent to said  
7 retaining wall;
- 8 f) The previous planting of non-native species on the coastal bluff;
- 9 g) The previous installation of a sprinkler system on the coastal bluff;
- 10 h) The previous repair and/or maintenance of the existing drainage inlet in the  
11 public right-of-way at the front of the residence.

12 7. Within 60 days from the date of this Stipulated Judgment, Defendants shall  
13 submit a complete set of plans (including all necessary drawings, reports, calculations, and fees) to  
14 the City of San Diego Development Services Department ("DSD"), for the purpose of obtaining a  
15 Site Development Permit, which addresses all previously unpermitted and future proposed grading,  
16 clearing, grubbing, excavating, filling, and/or development on the PROPERTY, related to each of the  
17 following:

- 18 a) Excavation for, and construction of, the proposed subterranean carport and  
19 garage improvement;
- 20 b) The retaining wall in the southern portion of the rear yard;
- 21 c) The concrete steps adjacent to said retaining wall;
- 22 d) The previous back-filling and leveling adjacent to said retaining wall;
- 23 e) The previous removal of vegetation (native or non-native) adjacent to said  
24 retaining wall;
- 25 f) The previous planting of non-native species on the coastal bluff;
- 26 g) The previous installation of a sprinkler system on the coastal bluff;
- 27 h) The previous repair and/or maintenance of the existing drainage inlet in the  
28 public right-of-way at the front of the residence.



8. In the event the CCC and/or DSD request written corrections to Defendants' plans regarding the Coastal Development Permit and/or Site Development Permit (described in Paragraphs 6 and 7 above), then **within 30 days from the date of any such request**, Defendants shall resubmit their corrected plans to the appropriate agency.

9. Within 60 days from the date the Coastal Development Permit and Site Development Permit (described in Paragraphs 6 and 7 above) are issued by the CCC and DSD respectively, Defendants shall submit a complete set of plans (including all drawings, calculations, and fees) to DSD, for the purpose of obtaining each of the following permits:

a) A Grading Permit, which addresses all areas on the PROPERTY which have been or will be graded, excavated, and/or filled -- specifically, the excavation of the interior of the garage, the area graded for the concrete steps adjacent to the retaining wall in the southern portion of the rear yard, as well as the backfilling and leveling (fill dirt removed and re-compacted) adjacent to said retaining wall, provided DSD determines that a Grading Permit is required for said work;

b) A Building Permit, which addresses the construction of the proposed subterranean carport and garage improvement, as well as the retaining wall (mortared or unmortared) in the southern portion of the rear yard.

10. In the event DSD requests written corrections to Defendants' plans regarding the Grading and/or Building Permits (described in Paragraph 9 above), then **within 30 days from the date of any such request**, Defendants shall resubmit their corrected plans to DSD.

11. Within 180 days from the date the Grading and Building Permits (described in Paragraph 9 above) are issued, Defendants shall obtain all necessary inspections and final approvals from the City of San Diego for each respective permit.

12. If at any time the CCC and/or DSD denies the Coastal Development Permit and/or Site Development Permit (described in Paragraphs 6 and 7 above), or the Court determines that Defendants have failed to comply with Paragraphs 8 and/or 10 above (requiring Defendants to resubmit their corrected plans to the CCC and/or DSD within 30 days of any request for written corrections), then **within 60 days of either occurrence**, Defendants shall submit a complete set of plans (including all necessary drawings, calculations, and fees) to DSD, for the purpose of obtaining



002540

1 a Grading Permit to restore those portions of the PROPERTY which were previously graded,  
 2 cleared, grubbed, excavated, filled, and/or developed to their original (pre-violation) topography and  
 3 condition, subject to DSD's recommendations regarding compaction and erosion control measures.  
 4 By way of this Grading Permit, Defendants understand that they must restore the excavated area  
 5 inside the garage, remove the retaining wall in the southern portion of the rear yard, remove the  
 6 concrete steps (and restore the area) adjacent to said retaining wall, restore the backfilled and leveled  
 7 area adjacent to said retaining wall, restore the vegetation (native or non-native) adjacent to said  
 8 retaining wall, and remove the sprinkler system on the coastal bluff, subject to DSD's determination  
 9 (in writing) that each of these items be restored and/or removed in whole or in part.

10 13. In the event DSD requests written corrections to Defendants' plans regarding the  
 11 Grading Permit (described in Paragraph 12 above), then **within 30 days from the date of any such**  
 12 **request, Defendants shall resubmit their corrected plans to DSD.**

13 14. **Within 60 days from the date the Grading Permit (described in paragraph 12**  
 14 **above) is issued by DSD, Defendants shall obtain all necessary inspections and final approvals from**  
 15 **the City of San Diego for the Grading Permit.**

16 15. Defendants shall perform their obligations under Paragraphs 6 through 14 (above) in  
 17 good faith. Likewise, Plaintiff shall process any and all permits applied for by Defendants under  
 18 Paragraphs 6 through 14 (above) in good faith. However, Defendants shall not be held responsible  
 19 for any undue delay caused by *force-majeure*, or caused by the CCC and/or DSD during the  
 20 permitting, inspection, and final approval processes required under Paragraphs 6 through 14 above.

21 16. Defendants shall allow inspectors from the City of San Diego access to all outdoor  
 22 and garage areas on the PROPERTY to inspect and take photographs, for the purpose of monitoring  
 23 Defendants' compliance with the terms and conditions of Paragraphs 6 through 14 (above):

- 24 a) Time: 9:00 a.m. - 4:00 p.m. (Monday through Friday, excluding holidays);  
 25 b) Notice: 48 hours is required (notice to Defendants' attorney or local  
 26 representative is sufficient).

27 . . . . .

28 . . . . .



**MONETARY RELIEF**

17. On the date this Stipulated Judgment is filed with the Court, Defendants shall pay Plaintiff the amount of **\$1453.22** in investigative costs, previously incurred by the City of San Diego Neighborhood Code Compliance Department ("NCCD"). Such payment shall be in full satisfaction of all costs associated with NCCD's investigation of this action, to date.

18. On the date this Stipulated Judgment is filed with the Court, Defendants shall pay Plaintiff the amount of **\$8000** in civil penalties. Such penalties shall be in full satisfaction of all claims against Defendants arising from the previous code violations alleged in this action, and from all prior complaints to NCCD regarding the PROPERTY.

19. All payments required under Paragraphs 17 and 18 (above) shall be in the form of a cashier's check (or by personal check, drawn on Ure R. Kretowicz' personal checking account), payable to the "City Treasurer." All payments shall be delivered to the Office of the City Attorney, Code Enforcement Unit, 1200 Third Avenue, Suite 700, San Diego, California 92101-4106, Attention: Michael D. Neumeyer.

20. In the event of default by Defendants as to any amount due under this Stipulated Judgment, Defendants shall pay Plaintiffs interest at the prevailing legal rate, from the date of default to the date of final payment.

**ENFORCEMENT OF JUDGMENT**

21. Nothing in this Stipulated Judgment shall prevent any Party from pursuing any remedy as provided by law, to subsequently enforce this Judgment or the provisions of the San Diego Municipal Code, including but not limited to, civil contempt, additional civil penalties, and/or criminal prosecution.

**RETENTION OF JURISDICTION**

22. Jurisdiction is retained for the purpose of enabling any Party to this Stipulated Judgment to apply to this Court at any time for such further orders or directions as may be necessary or appropriate for the enforcement, construction, operation, and/or modification of this Judgment, or to assess additional monetary penalties in the event Defendants violate this Stipulated Judgment.



002542

## DISMISSAL OF DOES

23. All allegations as to Does I through XX, inclusive, are dismissed.

## RECORDATION OF JUDGMENT

24. The City of San Diego shall record a copy of this Stipulated Judgment against the PROPERTY (Assessor Parcel Nos. 350-151-01, 350-151-02, and 346-440-12) with the San Diego County Recorder's Office, the legal description of which is as follows:

All of Lots 10 and 11 of Block 3 of Amalfi Subdivision, in the City of San Diego, County of San Diego, State of California, according to Map thereof No. 959, filed in the Office of the County Recorder of San Diego County, September 25, 1905; and all that portion of Pueblo Lot 1285 of Pueblo Lands of San Diego, in said City according to map thereof made by James Pascoe in 1870, a copy of which said map was filed in the Recorders office in said San Diego County, November 14, 1921 and is know as Miscellaneous Map. No. 36, described as follows:

Commencing at a point in the Easterly line of Lot 11 in Block 3 of Amalfi in said City, according to map thereof No. 959, filed in the Recorders office September 25, 1905; distant Northerly 10 feet from the Southeasterly corner of said Lot 11; thence at right angles Easterly a distance of 8 feet to a point; thence Southerly at right angles a distance of 35 feet to a point; thence Southerly to a point in a line which is the prolongation of the Easterly line of said Lot 11 which is the Westerly line of said Pueblo Lot 1285; distant Southerly a distance of 63 feet from the Southeasterly corner of said lot 11; thence Northerly along the Westerly line of said Pueblo Lot 1285 and the Easterly line of said Lot 11 to the Point of Beginning.

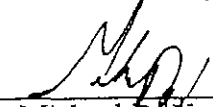
Excepting therefrom any portion thereof lying below the mean high tide line.

By signing this Stipulated Judgment, Defendants admit that they have personal knowledge of all the terms of this Stipulated Judgment as set forth herein. Service by mail shall constitute sufficient notice for all purposes.

IT IS SO STIPULATED:

DATED: April 12, 2004

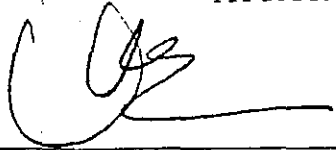
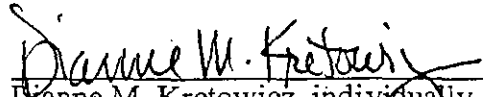
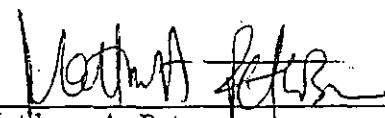
CASEY GWINN, City Attorney

By   
Michael D. Neumeyer  
Deputy City Attorney

Attorneys for Plaintiff



002543

1 DATED: 4. 2, 2004
  
 Ure R. Kretowicz, individually and as  
 Trustee of the Princess Trust Dated  
 May 13, 1993.  
 Defendant
2  
3  
4  
5 DATED: 4/2, 2004
  
 Dianne M. Kretowicz, individually and as  
 Trustee of the Princess Trust Dated  
 May 13, 1993.  
 Defendant
6  
7  
8  
9 DATED: 4/6, 2004
  
 Matthew A. Peterson  
 Attorney for Defendants

10  
11  
12  
13  
14 Upon this Stipulated Judgment by the Parties hereto, and upon their agreement to the entry of  
15 Judgment without trial or adjudication of any issue of fact or law herein, and good cause appearing  
16 therefore, IT IS SO ORDERED, ADJUDGED, AND DECREED.

17  
18 DATED: APR 14 2004

STEPHANIE SONTAG

19 JUDGE OF THE SUPERIOR COURT  
20  
21  
22  
23  
24  
25  
26  
27  
28





002545

THE CITY OF SAN DIEGO

MAILED

NOV 14 2007

November 14, 2007

NEIGHBORHOOD CODE COMPLIANCE

# CIVIL PENALTY NOTICE AND ORDER

**Location:** 7957 Princess Street

**APN NO.:** 350-151-01 and 346-440-12

**Owner/**

**Responsible Person:** Ure Richard Kretowick  
D U K Trust 9/9/94

**Address:** 7957 Princess Street  
La Jolla, CA 92037

Ure Richard Kretowick  
Cornerstone Communities Corp.  
4365 Executive Drive, Suite 600  
San Diego, CA 92121

Claude A. Marengo  
Marengo Morton Architects  
7855 Ivarhoe Avenue, Suite 110  
La Jolla, CA 92037

**Zone:** La Jolla Shores Planned District - Single Family  
RS-1-7

You are hereby notified that the property at 7957 Princess Street is in violation of the San Diego Municipal Code (SDMC) and you are subject to civil penalties pursuant to San Diego Municipal Code Section 12.0801 through 12.0810.

Civil Penalties for violations of the Municipal Code may be assessed at a daily rate not to exceed \$2,500 per day per violation; not to exceed a total maximum of \$250,000 per parcel or structure for any related series of violation(s).

Penalties may be assessed for each individual code section violated. These penalties may accrue daily for as long as the violations exist.

You are violating the law by implementing improvements and additions that were constructed without obtaining an amendment to the original Coastal Commission Permit and/or obtaining a Coastal Development Permit, Site Development Permit, Building and Public Improvement Permits. These improvements / modifications to the main floor of the original 1978 structure include the conversion of the living room to the master suite, the demolition of the original existing kitchen and the modification of the decks without the required building permits. In



Development Services Department  
Neighborhood Code Compliance Division

1200 Third Avenue, 8th Floor, MS 51N • San Diego, CA 92101-4106

Tel (619) 234-5500 Fax (619) 533-6147



002546

Civil Penalty Notice and Order  
 7957 Princess Street  
 November 14, 2007  
 Page 2

addition, the lower level has been excavated and modified to create additional rooms. The stairs along the east side of the structure were built, the segment of wall and gate which provides emergency life guard access and the excavation of soil from the area directly below the floor of the garage were constructed/modified without the required building permit.

The accessory structure that is identified as an existing photographic lab in the plans dated 8/14/78 and is commonly referred to as the casita, has been modified without the required permits. These modifications include the extension of the existing retaining wall, the expansion of the wall of the structure into the public right of way, and the construction of a new wall in the public right of way which requires a process four Site Development Permit. The installation of new partition walls and electrical circuits / fixtures that exceed the scope of work of permits # 137439 and # 144587. The other modifications to this structure include the installation of plumbing for a new shower and the installation of new windows and the relocation of the door.

On September 12, 2005, August 14, 2006, August 24, 2006, March 19, 2007, August 7, 2007, November 8, 2007, and November 9, 2007, the property was observed to be in violation of the following section(s) of the SDMC.

<u><b>SDMC Sec.</b></u>	<u><b>Violation Description &amp; Location</b></u>
-------------------------	--

**SDMC Section, 1510.0107 Applicable Regulations**

(a) Where not otherwise specified in the La Jolla Shores Planned District, the following provisions of the Land Development Code apply:

Chapter 11 (Land Development Procedures);  
 Chapter 12 (Land Development Reviews);  
 Chapter 13, (Zones);  
 Chapter 14, Article 2, Division 1 (Grading Regulations);  
 Chapter 14, Article 2, Division 2 (Drainage Regulations);  
 Chapter 14, Article 5 (Building Regulations);  
 Chapter 14, Article 6 (Electrical Regulations); and  
 Chapter 14, Article 7 (Plumbing and Mechanical Regulations).

(b) Where there is a conflict between the Land Development Code and the La Jolla Shores Planned District Ordinance, the Planned District Ordinance applies. In addition, Municipal Code Section 151.0401(b), which provides regulations for limited uses, applies in the La Jolla Shores Planned District, but Section 151.0401(c), (d), (e), and (f), which permits Neighborhood Use Permits and Conditional Use Permits, does not apply. ("Applicable Regulations" added 3-27-2007 by O-19587 N.S.; effective 4-26-2007.) Ch. Art. Div. 15 10 1 San Diego Municipal Code Chapter 15: Planned Districts (3-2007)

**SDMC, Section 121.0302(B)(2) Required Compliance with the Land Development Code.** It is unlawful to grade, excavate, clear, fill, grub, build an embankment, construct slopes, or disturb sensitive natural or biological resources on any lot or premise.

**SDMC, Section 126.0723 Violation of a Coastal Development Permit.** It is unlawful for any person to maintain, use, or undertake coastal development on any lot or premises without a coastal development permit.



002547

Civil Penalty Notice and Order  
7957 Princess Street  
November 14, 2007  
Page 3

**SDMC, Section 143.0110(a)(1) When environmentally Sensitive Lands Regulations Apply.** This division applies to all proposed development when environmentally sensitive lands are present, and a Site Development Permit is required.

**SDMC, Section 143.0112 Requirement to Submit Required Documentation and Obtain Permit Prior to Development of Environmentally Sensitive Lands.** It is unlawful to begin development on a premise that contains environmentally sensitive lands without submitting required documentation and obtaining the applicable development permit. **If unlawful development occurs on property containing environmentally sensitive lands and an enforcement action has been commenced by the City pursuant to Section 143.0160, no development permit application may be processed until the enforcement action has been concluded.**

**SDMC, Section 143.0141(i) Development Regulations for Sensitive Biological Resources.** Development occurring in sensitive biological resources is subject to site specific impact analysis in accordance with the Biology Guidelines.

**SDMC, Section 143.0160 Violations and Remedies.** Violation of the division shall be enforced pursuant to Division 2, Enforcement Authorities for the Land Development Code.

**SDMC, Section 143.0210 When Historical Resources Regulations Apply**

**SDMC, Section 143.0211 Duty to Submit Required Documentation and to Obtain Permit**  
The property owner or applicant shall submit required documentation and obtain a construction permit, a Neighborhood Development Permit, a Site Development Permit as required pursuant to this division before any development activity occurs on a premises that contains historical resources.

**SDMC, Section 143.0212 Need for Site-Specific Survey and Determination of Location of Historical Resources**

**SDMC, Section 143.0280 Violations and Remedies**

The provisions of this division shall be enforced pursuant to Chapter 12, Article 1, Division 2 (Enforcement Authorities for the Land Development Code) and the Historical Resources Guidelines of the Land Development Manual.

**SDMC, Section 142.0144 Grading Within Environmentally Sensitive Lands**

Grading within environmentally sensitive lands shall comply with Chapter 14, Article 3, Division 1 (Environmentally Sensitive Lands Regulations).

**SDMC, Section 129.0202 When a Building Permit Is Required**

(a) No structure regulated by the Land Development Code shall be erected, constructed, enlarged, altered, repaired, improved, converted, permanently relocated or partially demolished unless a separate Building Permit for each structure has first been obtained from the Building Official, except as exempted in Sections 129.0202(b) and 129.0203.



Civil Penalty Notice and Order  
7957 Princess Street  
November 14, 2007  
Page 4

**SDMC, Section, 129.0204 How to Apply for a Building Permit**

(d) Plans and specifications shall be drawn to scale and shall be of sufficient clarity to indicate the location, nature, and extent of the work proposed and to show in detail that it will comply with the provisions of the Building Regulations and all applicable laws, ordinances, rules, and regulations.

**SDMC, Section 129.0302 When an Electrical Permit Is Required**

No electrical wiring, device, appliance, or equipment shall be installed within or on any structure or premises nor shall any alteration, addition, or replacement be made in any existing wiring, device, appliance, or equipment unless an Electrical Permit has been obtained for the work, except as exempted in Section 129.0303.

**SDMC, Section 129.0402 When a Plumbing/Mechanical Permit Is Required**

(a) No plumbing system, or portion of a plumbing system, shall be installed within or on any structure or premises, nor shall any alteration, addition, or replacement be made in any existing plumbing system unless a Plumbing/Mechanical Permit has been obtained for the work except as exempted in Section 129.0403.

**You are hereby ordered to correct the violations by completing the following actions set forth below:**

**Immediately cease and desist all development activity on the premises and attempts to obtain ministerial permits for work without first obtaining the required discretionary permits.**

A Civil Penalty Hearing will be scheduled before an Administrative Hearing Officer to obtain an order to conclude the code enforcement action and allow the processing of a development permit in accordance with Section 143.0112 of the Municipal Code.

**Failure to Comply with Notice and Order**

Failure to comply with this Notice and Order will result in the ongoing assessment of Civil Penalties:

**1. Civil Penalties Hearing**

This Notice and Order may cause a date, time, and place to be set for a hearing regarding the existing violations and confirmation of assessed civil penalties.

Written notice of the time and place of the hearing will be served on you at least ten days prior to the date of the hearing.

At the hearing, you, your agent or any other interested person may present testimony or evidence concerning the existence of the violations and the means and time frames for correcting the violations. Testimony or evidence may also be presented relating to the duration, frequency of recurrences, nature and seriousness, and history of the violations; whether the offense impacted environmentally sensitive lands or historical resources the



002549

Civil Penalty Notice and Order  
7957 Princess Street  
November 14, 2007  
Page 5

willfulness of the responsible person's misconduct, after issuance of the Notice and Order; the good faith effort by the responsible person to comply; the economic impact of the penalty on the responsible person; the impact of the violation upon community; and/or any other factor which justice may require.

Failure to attend the hearing shall constitute a waiver of your rights to an administrative hearing and administrative adjudication of the Notice and Order.

## **2. Assessment of Penalties**

Any person violating any provision of the Municipal Code or applicable State Codes is subject to assessment of Civil Penalties.

Civil penalty amounts are established by the Deputy Director of the Neighborhood Code Compliance. The following factors were used in determining the amount: Case history, lack of good faith effort towards compliance, economic impact, seriousness of the violation, visual impact upon the community and the increase in seriousness of the violations.

The penalty rate for the above listed violation(s) has/have been established at **\$5,000.00** per day and shall be an ongoing assessment of penalties at the daily rate until the violations are corrected in accordance with Municipal Code Sections 12.0801 et seq.

Pursuant to SDMC, Section 12.0805(a), in determining the date on which civil penalties shall begin to accrue and the duration, the Deputy Director may consider a date when Neighborhood Code Compliance first discovered the violations as evidenced by the issuance of a Notice of Violation or any other written correspondence.

### **Administrative Costs**

The Deputy Director or Hearing Officer is authorized to assess administrative costs. Administrative cost may include scheduling and processing of the hearing and all subsequent actions.

### **Waiver**

Failure to attend the hearing shall constitute a waiver of your rights to an administrative hearing and adjudication of the Notice and Order or any portion thereof.

If you fail, neglect or refuse to obey an order to correct the violations, civil penalties will continue to accrue on a daily basis until the violation is corrected, except that such amount shall not exceed \$250,000.

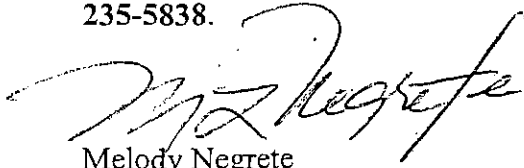
If you fail, neglect or refuse to obey an order to pay civil penalties, the unpaid amount shall constitute a personal obligation and/or a lien upon the real property. Failure to pay a personal obligation will cause the Deputy Director to refer the obligation to the City Attorney to file a



Civil Penalty Notice and Order  
7957 Princess Street  
November 14, 2007  
Page 6

court action to recover these costs. Failure to pay a lien will cause the Deputy Director to refer the lien to the County Auditor for collection in the same manner that ordinary municipal taxes are collected.

If you have any questions concerning this Notice and Order, or to schedule a compliance inspection, please contact **Duke Fernandez, Land Development Investigator at (619) 235-5838.**



Melody Negrete  
Code Enforcement Coordinator

MN/DF/lm

cc: Jeff Peterson, Development Project Manager, MS 501  
File

NC# 40952

This information will be made available in alternative formats upon request.

7957\_Princess St\_nc105\_dff





002551

**MAILED**

DEC 07 2007

THE CITY OF SAN DIEGO

NEIGHBORHOOD CODE COMPLIANCE

December 6, 2007

## NOTICE OF CIVIL PENALTY HEARING

Owner/

Responsible Person: Ure Richard Kretowick  
D U K Trust 9/9/94Address: 7957 Princess Street  
La Jolla, CA 92037Ure Richard Kretowick  
Cornerstone Communities Corp.  
4365 Executive Drive, Suite 600  
San Diego, CA 92121Claude A. Marengo  
Marengo Morton Architects  
7855 Ivanhoe Avenue, Suite 110  
La Jolla, CA 92037

Subject Address: 7957 Princess Street

You have failed to comply with the civil penalty deadline date as stated in the Civil Penalty Notice & Order letter, dated November 14, 2007.

In accordance with the San Diego Municipal Code Section 12.0801, a Civil Penalty Hearing has been scheduled to hear the issue "... on the existence of the violation" and determining "...the time frame involved in assessing the civil penalty and..." explanation of "...all factors considered in determining the amount of the civil penalty to be imposed." The date, time, and place for this hearing are as follows:

**DATE :** December 18, 2007  
**TIME :** 1:00 PM  
**LOCATION :** Civic Center Plaza  
 1200 Third Avenue, 8<sup>th</sup> Floor  
 San Diego, CA 92101-6142

Legal representation is not required for this hearing; however, if you choose to have legal representation, you must immediately notify this office of your attorney's name, address and phone number.

If you wish, you may submit written material or documentation regarding your case. This is not required, but if you choose to do so, two copies must be submitted to this office by December 13, 2007. Written documentation which will be presented by the City at the hearing is enclosed.



**Development Services Department**  
**Neighborhood Code Compliance Division**

1200 Third Avenue, 8th Floor, MS 51N • San Diego, CA 92101-4106

Tel (619) 236-5500 Fax (619) 533-6142



002552

Notice of Civil Penalty Hearing  
7957 Princess Street  
December 6, 2007  
Page 2

**It is the responsibility of the appellant to provide a translator for any language other than English.**

If you need to delay the hearing, you must submit either a written request or a verbal request, followed by a written request, prior to the hearing date and showing "good cause." If you fail to appear, the hearing will be considered abandoned and the Neighborhood Code Compliance Department shall follow through with intended action.

Should you have any questions regarding the above or need additional information, please contact me at (619) 533-6140.



Melody Negrete  
Code Enforcement Coordinator

MN/DF/ta

Enclosures:

cc: Mandel Himmelstein, Hearing Officer  
Jeff Peterson, Project Manager, DSD, MS 501  
Samuel Lindsay, Structural Inspector, NCC, DSD  
Michael Wisnieski, Sr. Land development Investigator, NCC, DSD  
Eric Picou, Land Development Investigator II, NCC, DSD  
Duke Fernandez, Land Development Investigator II, NCC, DSD  
Melody Negrete, Code Enforcement Coordinator, NCC, DSD

NC 131163

This information will be made available in alternative formats upon request.

7957\_PrincessSt\_nc122\_dff



002553



ATTACHMENT 19

MAILED

JAN - 8 2008

NEIGHBORHOOD CODE COMPLIANCE

THE CITY OF SAN DIEGO

January 8, 2008

Ure Richard Kretowick  
D U K Trust 9/9/94  
7957 Princess Street  
La Jolla, CA 92037

Ure Richard Kretowick  
Cornerstone Communities Corp.  
4365 Executive Drive, Suite 600  
San Diego, CA 92121

Dear: Ure Richard Kretowick

Subject: 7957 Princess Street

Enclosed you will find a copy of the hearing officer's findings regarding the administrative hearing that took place on December 18, 2007 (invoice to follow).

There are no further administrative appeal options available for this case nor can the City of San Diego, Neighborhood Code Compliance (NCC) modify this decision in any way. This decision, however, is appealable to Superior Court through a writ of mandate. According to California Code of Civil Procedure, Section 1094.6, this appeal must be filed with the court no later than ninety (90) days from the postmarked date of this letter.

Sincerely,

  
Teresa Almazan  
Hearing Coordinator

DF/ta

cc: Claude Marengo, Marengo Morton Architects, 7855 Ivanhoe Ave, Ste 110, L.J. CA 92037  
Jeff Peterson, Project Manager, DSD, MS 501

NC# 131163

This information will be made available in alternative formats upon request.

7957\_PrincessSt\_nc105b\_dff



Development Services Department  
Neighborhood Code Compliance Division

1200 Third Avenue, 8th Floor, MS 51N • San Diego, CA 92101-4106

Tel (619) 236-5500 Fax (619) 533-6142



City Of San Diego  
Neighborhood Code Compliance  
1200 Third Avenue, 8th Floor  
San Diego CA 92101  
Telephone: (619) 533-6124  
Fax: (619) 236-5920

**DECLARATION OF  
SERVICE BY MAIL)**

NC#: 131163  
Subject Property: 7957 Princess Street  
Property Owner(s): Ure Richard Kretowicz

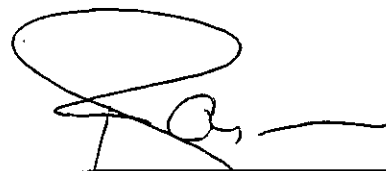
I, the undersigned, declare that I am, and was at the time of service of the papers herein referred to, over the age of eighteen years and not a party to the action; and I am employed in the County of San Diego, California, in which county the within-mentioned mailing occurred. My business address is 1200 Third Ave., 8th Floor, San Diego, California 92101.

I served the following document(s): **ADMINISTRATIVE ENFORCEMENT ORDER**, related to **7957 Princess Street**, by placing a copy of each document in a separate envelope addressed to each addressee, respectively, listed below:

<b>Name:</b>	Ure Richard Kretowicz D U K Trust 9/9/94	Ure Richard Kretowicz Cornerstone Communities Corp.
<b>Address:</b>	7957 Princess Street La Jolla, CA 92037	4365 Executive Drive, Suite 600 San Diego, CA 92121

I then sealed each envelope and with the postage thereon fully prepaid, deposited each in the United States Postal Service at San Diego, California, on **January 8, 2008**.

I declare under penalty of perjury and the laws of the State of California that the foregoing is true and correct. Executed on **January 8, 2008**, at San Diego, California.

  
\_\_\_\_\_  
Teresa Almazan  
Hearing Coordinator



002553

Mandel E. Himmelstein  
 Attorney at Law  
 P.O. Box 180519  
 Coronado, CA 92178  
 State Bar No. 174997

Administrative Hearing Officer,  
 City of San Diego

IN THE MATTER OF	)	
	)	
Ure Richard Kretowicz	)	
DUK Trust 9/9/94	)	
7957 Princess Street	)	CIVIL PENALTY
	)	ADMINISTRATIVE ENFORCEMENT ORDER
San Diego, CA	)	
_____	)	

#### STATEMENT OF THE CASE

This matter came on regularly for hearing before Mandel E. Himmelstein, Administrative Hearing Officer for the City of San Diego on December 18, 2007 at 1:00 p.m. at The Neighborhood Code Compliance Department (NCCD), and was heard on that date, notice duly and regularly given.

The purpose of the hearing was to determine whether the Responsible Person has caused or maintained a violation of the Municipal Code or applicable State Code that existed on the dates specified in the Notice and Order; and whether the amount of civil penalties assessed by the Director pursuant to the procedures and criteria outlined in Section 12.0805 were reasonable.

Melody Negrete, Code Enforcement Coordinator, Jeff Peterson, Project Manager, Samuel Lindsay, Structural Inspector, Michael Wisnieski, Senior Land Development Investigator, Eric Picou, Land Development Investigator II, Tanya Rodin, Senior Combination Inspector, and Duke Hernandez, Land Development Investigator II appeared on behalf of The City of San Diego. Appellant appeared on his own behalf, accompanied by his architect, Claude Marengo.

The documents identified on and attached to the City Civil Penalty Hearing packet were introduced by the City and identified as Exhibits C-1 through C-35. The City of San Diego introduced a replacement C-3, replacement C-15 and



Exhibits C-36 and C-37 during the hearing. The Appellant did not offer documentary evidence. All documents were received into evidence.

II  
FINDINGS OF FACT

1. Appellant owns the property at 7957 Princess Street, La Jolla, CA (PROPERTY). The PROPERTY is located on a bluff top. The PROPERTY was built in 1915 and underwent permitted modification in 1969, 1978 and 1998. The last permitted work was completed by Appellant.

Prior to Appellant's ownership, the PROPERTY already had a long history of code violations. The PROPERTY is under the jurisdiction of the California Coastal Commission (CCC) as to code enforcement and required coastal development permits (CDP), and the City of San Diego as to required site development permits (SDP).

There is a history of violations by this Appellant from at least 2001. A Notice of Violation was issued by the CCC in 2001 and at least two stop work orders were issued in 2001 and 2002. There have been two stipulated judgments, one in 2004 and one in 2005. There is existing litigation between Appellant and the CCC concerning the CDP.

NCCD has conducted at least 16 site inspections between 2001 and the date of this hearing. Neighbors have petitioned the City for action to enforce the Municipal Code and stop violations by Appellant.

Notwithstanding continuous site inspections, meetings with Appellant, correspondence, telephone conferences, meetings with counsel and the issuance of notices and citations, Appellant has not complied. Unpermitted ongoing construction continued to the date of this hearing.

2. As of the date of this hearing, unpermitted construction at the PROPERTY includes:
  1. a new deck
  2. a new deck cover
  3. a cantilevered balcony
  4. a new exterior wall
  5. a new fireplace
  6. remodeled garage, kitchen and bar
  7. staircase
  8. front entry wall and door
  9. auxiliary structure (AS), walls and remodel.
  10. new bathroom
  11. several other improvements.



002557

3. On November 14, 2007, a Civil Penalty Notice and Order (CPNO) was issued to Appellant citing these violations and requiring compliance by immediately ceasing all development and taking steps to obtain required permits.

The City assessed \$5,000.00 per day for 34 days of the violations, totaling \$170,000.00.

The CPNO detailed the violations of the San Diego Municipal Code (SDMC) as follows:

1. 1510.0107 – La Jolla Shores Plan District
2. 121.0302(B)(2) – Land Development Code
3. 126.0723 – Coastal Development Permit
4. 143.0110(a)(1) – Environmentally Sensitive Lands (ESL)
5. 143.0112 – ESL Permit Requirements
6. 143.0141(i) – Sensitive Biological Resources
7. 143.0160 – Remedies
8. 143.0210 – Historical Resources Regulations
9. 143.0211 – Permit Requirements
10. 143.0212 – Site-Specific Survey
11. 143.0280 – Historical Resources Guidelines
12. 142.0144 – Grading Within ESL
13. 129.0202 – Building Permits
14. 129.0204 – Application
15. 129.0302 – Electrical Permits
16. 129.0402 – Plumbing Permits

Appellant has not corrected these violations.

4. Appellant does not deny the allegations of the CPNO nor the PROPERTY history. Appellant is cooperative, but non-compliant. Except for construction involving the AS because of flood damage, Appellant does not excuse his actions and intends to immediately comply. He maintains that he is simultaneously working with the CCC to amend the CDP or obtain a new CDP.

Appellant acknowledges that the entire structure has been modified without permit.

5. Appellant violated and continues in violation of each section of the SDMC set forth in the CPNO.
6. All Notices and Orders including Notice of Time and Place of This Hearing were served upon Appellant according to law.
7. The Responsible Party is Appellant.



002558

8. The City of San Diego expended costs of \$6,057.59 in this case.

## III

## DETERMINATION OF ISSUES

1. By reason of the facts found in Findings of Fact paragraph 7, Appellant is the Responsible Party.
2. By reason of the facts found in Findings of Fact paragraph 6, the Appellant was notified of the Notice and Order of Civil Penalties and this Administrative Hearing.
3. By reason of the facts found in Findings of Fact paragraph numbers 1, 2, 3, 4, 5 and 7, the Appellant failed to comply with the Civil Penalty Notice and Order.
4. By reason of the facts found in Findings of Fact paragraph numbers 1, 2, 3, 4 and 5, Appellant violated the SDMC Code as listed in Paragraph 1.
5. By reason of the facts found in Findings of Fact paragraph numbers 1, 2, 3, 4, 5 and 7, the civil penalty assessed against Appellant in the amount of \$170,000.00 is affirmed. Administrative costs of \$6,057.59 are awarded to the City of San Diego.

IV  
ORDER

THEREFORE, the following order is made:

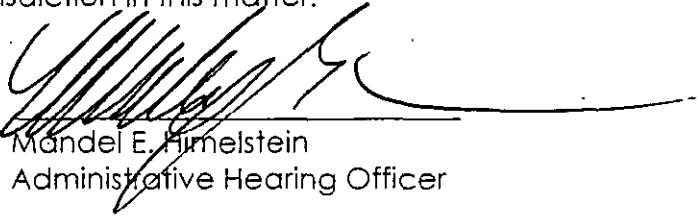
1. Appellant is ordered to pay \$50,000.00 in civil penalties plus administrative costs of \$6,057.59 for a total of \$56,057.59. Payment shall be made to the City Treasurer upon receipt of invoice.
2. The balance of \$120,000.00 is stayed pending Appellant's timely compliance with the following:
  - A. Payment of civil penalty and costs.
  - B. Immediate cessation of all work at the PROPERTY.
  - C. On or before March 18, 2008, submit all additional documents, plans and reports required in accordance with assessment letter dated October 5, 2007, including plans depicting violations noted in the CPNO. This submittal will be added to Project #138513.



002553

- D. Each additional submittal required by Development Services Department (DSD) must be submitted and complete within 90 calendar days from the date of issuance of each assessment letter.
  - E. Upon approval of Project #138513 by DSD and CCC, submit application for ministerial permits for the project within 90 calendar days.
  - F. Begin construction within 30 calendar days from the date of approval of ministerial permits.
  - G. Obtain all final inspections and approvals within 120 calendar days from the date construction is required to begin.
3. If Appellant timely complies with this Order, the balance of \$120,000.00 is dismissed; if Appellant shall fail to so comply, the balance of \$120,000.00 is awarded and payable to the City of San Diego upon receipt of invoice.
4. The penalties and administrative costs shall be both a special assessment lien against the PROPERTY and a personal lien against the Appellant and may be recovered by the use of all appropriate legal means.
5. The Hearing Officer retains jurisdiction in this matter.

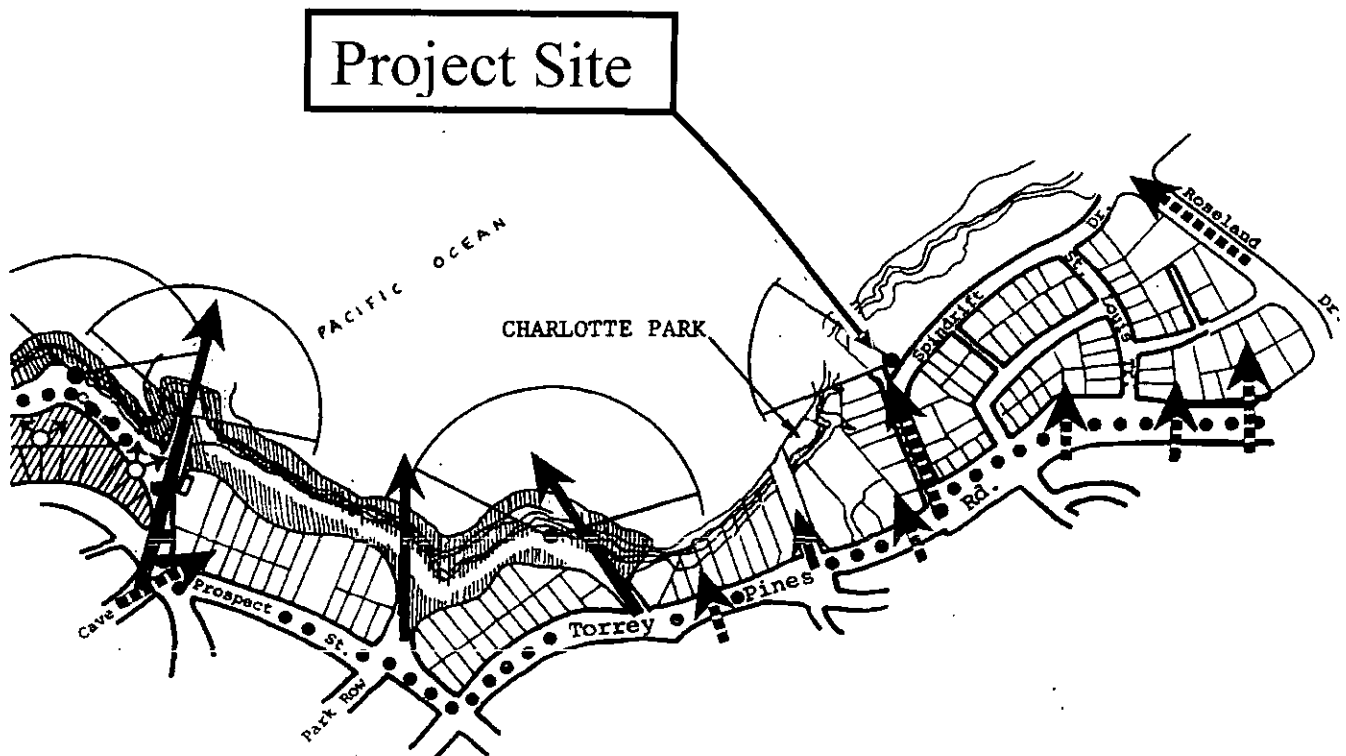
Dated: December 26, 2007



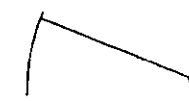
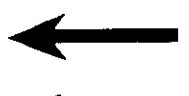




Mandel E. Himmelstein  
Administrative Hearing Officer



002561



NOTE: All views are to a coastal body of water

-  MAJOR VIEWSHED: Unobstructed panoramic view from a public vantage point
-  VIEW CORRIDOR: Unobstructed framed view down a public R.O.W.
-  SCENIC OVERLOOK: View over private properties from a public R.O.W.
-  SCENIC ROADWAY: Partially obstructed views over private properties and down public R.O.W.s
-  QUASI-PUBLIC VISTA on commercial properties
-  HIGH POTENTIAL for visual access in commercial development

0 400 FEET

## Subarea D: Coast Walk - Visual Access



**La Jolla Community Plan**  
City of San Diego - Planning Department



Figure D



**SUBAREA D: COAST WALK****Shoreline Access:**

- a. Princess Street. As a condition of a permit to build a single-family house, the State Coastal Commission required the owner of the bluff top lot to dedicate a five foot-wide vertical easement along one side of the property from the Princess Street cul-de-sac to the shoreline. This easement has access only for emergency lifeguard rescue.
- b. Charlotte Park. Dedicated unimproved vista point. Neither Charlotte Park nor Charlotte Street are accessible at the present time. Opportunities to link Charlotte Street with Coast Walk have been lost due to bluff erosion. Charlotte Street is a 50-foot-wide dedicated "paper street" running vertically from Torrey Pines Road to the bluff edge. The street has never been improved and is presently fenced and overgrown with vegetation. An old cottage built in the 1920s encroaches several feet into the west side of the street easement and will apparently remain for some time. Retain as open space.
- c. Coast Walk. Dedicated and historically-designated right-of-way off Torrey Pines Road. Within the right-of-way is a continuous bluff top trail and scenic overlook with public parking. Points of access to the trail include Coast Walk Boulevard, Park Row (street end), and Cave Street (near Goldfish Point). Bluffs adjacent to the walk are extremely steep and fragile. No vertical access to the shoreline exists along the trail except at the Goldfish point terminus.
- d. Devils Slide. Devils Slide is a steep bluff section along Coastal Walk below the foot of Park Row. Access has historically been provided to this point utilizing a stairway down the bluff face. The last stairway was burned out in the early 1960s and has never been replaced. High maintenance costs and the need to limit access to the ecological reserve have been cited as reasons not to rebuild the access. The unimproved site is still used by some individuals to climb down the bluff, although it is very hazardous.
- e. Goldfish Point. Rocky headland area within the Coast Walk right-of-way. A natural pedestrian trail provides vertical access to the tip of the point. A nearby historic structure, the Cave Store (on Cave Street) contains the entrance to a tunnel which leads to a sea cave below the bluffs. A fee is charged for the use of the tunnel.



PLANNING COMMISSION  
RESOLUTION NO. xxxxxx  
SITE DEVELOPMENT PERMIT NO. 482270  
NEIGHBORHOOD USE PERMIT NO. 581890  
**KRETOWICZ RESIDENCE - PROJECT NO. 138513**  
AMENDMENT TO SITE DEVELOPMENT PERMIT NO. 108967  
**DRAFT**

WHEREAS, DUK TRUST (Ure R. Kretowicz and Diane M. Kretowicz Trustees), Owner/Permittee, filed an application with the City of San Diego for a permit to maintain the previously constructed improvements, modifications, and additions to an existing single-family residence, and convert an existing accessory building into a guest quarters, add a new trellis and jacuzzi (as described in and by reference to the Exhibits "A"), on portions of a 0.52-acre site;

WHEREAS, the project site is located at 7957 Princess Street, in the RS-1-7 Zone and the SF Zone of the La Jolla Shores Planned District within the La Jolla Community Plan Area, Coastal Overlay Zone (Appealable Area), Coastal Height Limitation Overlay Zone, Sensitive Coastal Overlay Zone, the Beach Impact Area of the Parking Impact Overlay Zone, Residential Tandem Parking Overlay Zone, and Transit Area Overlay Zone;

WHEREAS, the project site is legally described as all of Lots 10 and 11, Block 3 of the Amalfi Subdivision, according to Map 959; and all that portion of Pueblo Lot 1285 of Pueblo Lands of San Diego, according to Map thereof made by James Pascoe in 1870, Miscellaneous Map No. 36;

WHEREAS, on October 2, 2008, the Planning Commission of the City of San Diego considered Site Development Permit No. 482270 and Neighborhood Use Permit No. 581890 pursuant to the Land Development Code of the City of San Diego;

BE IT RESOLVED by the Planning Commission of the City of San Diego as follows:

That the Planning Commission adopts the following written Findings to DENY Site Development Permit No. 482270 and Neighborhood Use Permit No. 581890, dated October 2, 2008.

FINDINGS:

**I. Site Development Permit - Section 126.0504**

**A. Findings for all Site Development Permits**

**1. The proposed development will not adversely affect the applicable land use plan;**

The project site is located at 7957 Princess Street, the northern terminus of Princess Street, which is a public street and the cul-de-sac located at the terminus of the street is within the public right-of-way. The site contains three legal lots, two of the lots are at the nexus of a coastal bluff and coastal canyon, and are located in the RS-1-7 Zone. The third lot is



002564

approximately 436 square feet in size and is located at the terminus of Princess Street, and is located in the SF Zone of the La Jolla Shores Planned District. This lot contains an existing detached accessory building located at the terminus of Princess Street which was approved on January 28, 1969, pursuant to Building Permit No. E40921. A portion or 1/3 of this existing accessory building is located within the public right-of-way and the remaining 2/3 of this structure is within the small lot. The project site is within the La Jolla Community Plan Area (LJCP), Coastal Overlay Zone (Appealable Area), Coastal Height Limitation Overlay Zone, Sensitive Coastal Overlay Zone, the Beach Impact Area of the Parking Impact Overlay Zone, Residential Tandem Parking Overlay Zone, and Transit Area Overlay Zone.

The project includes improvements, modifications, and additions to the existing single-family residence, the project site, and the accessory structures that have been previously constructed, and a new trellis addition over the deck and a new jacuzzi. The existing detached accessory building, located at the terminus of Princess Street, is proposed to be used as a guest quarters, and would be classified as an accessory use to a single family residence. The zoning designations are for a single family residential and the LJCP designates the proposed project site for single family use (5-9 dwelling units per acre). Therefore, the proposed development will not adversely affect the applicable land use plan.

**2. The proposed development will not be detrimental to the public health, safety, and welfare; and**

This Finding can not be made. The project includes improvements, modifications, and additions to the existing single-family residence, the project site, and the accessory structures that have been previously constructed, and a new trellis addition over the deck and a new jacuzzi. An existing detached accessory building located at the terminus of Princess Street was approved on January 28, 1969, pursuant to Building Permit No. E40921. This existing detached accessory building is proposed to be converted from a non-habitable accessory use into a guest quarters (habitable accessory use). A portion or 1/3 of this existing accessory building is located within the public right-of-way and the remaining 2/3 of this structure is within the property lines. The building records for the detached accessory building indicate that the structure was a "Photo Lab," a non-habitable accessory use. The approval of the permit would grant habitable living space/use within the public right-of-way, which creates a life and safety issue for those living and sleeping in the structure, a liability for the City, and does not benefit a public purpose. Therefore, the proposed guest quarters use would be detrimental to the public health, safety, and welfare.

**3. The proposed development will comply with the applicable regulations of the Land Development Code.**

The project site is located at 7957 Princess Street, the northern terminus of Princess Street, in the RS-1-7 Zone and the SF Zone of the La Jolla Shores Planned District. The site is within the LJCP, Coastal Overlay Zone (Appealable Area), Coastal Height Limitation



Overlay Zone, Sensitive Coastal Overlay Zone, the Beach Impact Area of the Parking Impact Overlay Zone, Residential Tandem Parking Overlay Zone, and Transit Area Overlay Zone. The zoning designations are for a single family residential and the LJCP designates the proposed project site for single family use (5-9 dwelling units per acre).

The project includes improvements, modifications, and additions to the existing single-family residence, the project site, and the accessory structures that have been previously constructed, and a new trellis addition over the deck and new jacuzzi. The existing and proposed development is consistent with the development regulations on size, location, and setbacks, and the intent of the regulations for the sensitive coastal bluffs guidelines. The accessory structures do not interfere with the free and unobstructed use of the public right-of way for public travel.

The Coastal Development Permit will be processed and issued by the California Coastal Commission (as an amendment to the original coastal development permit issued by the Commission) once all of the City's actions have been completed. The California Coastal Commission is exclusively responsible for the Coastal Development Permit and or amendments pursuant to Section 126.0717 of the Land Development Code (LDC). Therefore, the proposed development will comply with the applicable regulations of the LDC.

#### **B. Supplemental Findings--Environmentally Sensitive Lands**

##### **1. The site is physically suitable for the design and siting of the proposed development and the development will result in minimum disturbance to environmentally sensitive lands;**

The project site is located at 7957 Princess Street and contains three legal lots; two of the lots are at the nexus of a coastal bluff and coastal canyon, and the third lot at the terminus of Princess Street. The project includes improvements, modifications, and additions to the existing single-family residence, the project site, and the accessory structures that have been previously constructed, and a new trellis addition over the deck and new jacuzzi. The proposed new jacuzzi and new trellis would be located on top of existing retaining walls and columns that support the existing deck structure. No additional load-bearing support structures would be needed to support the proposed jacuzzi and trellis structures, consistent with the development regulations for sensitive coastal bluffs. The proposed jacuzzi and trellis provides the required 5 feet setback from the established coastal bluff edge. The existing and proposed development is consistent with the development regulations on size, location, and setbacks, and the intent of the regulations for the sensitive coastal bluffs guidelines. The accessory structures do not interfere with the free and unobstructed use of the public right-of way for public travel. Therefore, the site is physically suitable for the design and siting of the proposed development and the development will result in minimum disturbance to environmentally sensitive lands.



**2. The proposed development will minimize the alteration of natural land forms and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards;**

The project site is located at 7957 Princess Street and contains three legal lots; two of the lots are at the nexus of a coastal bluff and coastal canyon, and the third lot at the terminus of Princess Street. The site is located in a seismically active region of California, in the geologic hazard category 43, and in a high sensitivity area for archaeological resources, and within close proximity to a recorded significant archaeological site (Spindrift site). A Negative Declaration has been prepared for the project in accordance with the State of the California Environmental Quality Act (CEQA) Guidelines.

The previously constructed improvements, modifications, and additions to the existing single-family residence were within the footprint of the existing structure. The proposed new jacuzzi and new trellis would be located on top of existing retaining walls and columns that support the existing deck structure. No additional load-bearing support structures would be needed to support the proposed jacuzzi and trellis structures, consistent with the development regulations for sensitive coastal bluffs. The proposed jacuzzi and trellis provides the required 5 feet setback from the established coastal bluff edge. The project site is not located within flood zone and would not contain any use that would create a fire hazard. Therefore, the proposed development will minimize the alteration of natural land forms and will not result in undue risk from geologic and erosional forces, flood hazards, or fire hazards.

**3. The proposed development will be sited and designed to prevent adverse impacts on any adjacent environmentally sensitive lands;**

The project site is located at 7957 Princess Street and contains three legal lots; two of the lots are at the nexus of a coastal bluff and coastal canyon, and the third lot at the terminus of Princess Street. The site is located in a seismically active region of California, in the geologic hazard category 43, and in a high sensitivity area for archaeological resources, and within close proximity to a recorded significant archaeological site (Spindrift site). A Negative Declaration has been prepared for the project in accordance with the State of the California Environmental Quality Act (CEQA) Guidelines.

The previously constructed improvements, modifications, and additions to the existing single-family residence were within the footprint of the existing structure. The proposed new jacuzzi and new trellis would be located on top of existing retaining walls and columns that support the existing deck structure. No additional load-bearing support structures would be needed to support the proposed jacuzzi and trellis structures, consistent with the development regulations for sensitive coastal bluffs. The proposed jacuzzi and trellis provides the required 5 feet setback from the established coastal bluff edge. The project site is not located within flood zone and would not contain any use that would create a fire hazard. Therefore, the site is physically suitable for the design and siting of the proposed development and the development will result in minimum disturbance to environmentally sensitive lands.



C02567

**4. The proposed development will be consistent with the City of San Diego's Multiple Species Conservation Program (MSCP) Subarea Plan;**

The project site is located at 7957 Princess Street, the northern terminus of Princess Street, and is not located within or adjacent to the Multi-Habitat Planning Area (MHPA) of the City of San Diego's Multiple Species Conservation Program (MSCP) Subarea Plan.

**5. The proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply; and**

The project site is located at 7957 Princess Street and contains three legal lots, two of the lots are at the nexus of a coastal bluff and coastal canyon, and the third lot at the terminus of Princess Street. The previously constructed improvements, modifications, and additions to the existing single-family residence were within the footprint of the existing structure. The existing and proposed development is consistent with the development regulations on size, location, and setbacks, and the intent of the regulations for the sensitive coastal bluffs guidelines. The accessory structures do not interfere with the free and unobstructed use of the public right-of way for public travel. A Negative Declaration has been prepared for the project in accordance with the State of the California Environmental Quality Act (CEQA) Guidelines. Therefore, the proposed development will not contribute to the erosion of public beaches or adversely impact local shoreline sand supply.

**6. The nature and extent of mitigation required as a condition of the permit is reasonably related to, and calculated to alleviate, negative impacts created by the proposed development.**

The previously constructed improvements, modifications, and additions to the existing single-family residence were within the footprint of the existing structure. The proposed new jacuzzi and new trellis would be located on top of existing retaining walls and columns that support the existing deck structure. No additional load-bearing support structures would be needed to support the proposed jacuzzi and trellis structures, consistent with the development regulations for sensitive coastal bluffs. The proposed jacuzzi and trellis provides the required 5 feet setback from the established coastal bluff edge. The existing and proposed development is consistent with the development regulations on size, location, and setbacks, and the intent of the regulations for the sensitive coastal bluffs guidelines. The accessory structures do not interfere with the free and unobstructed use of the public right-of way for public travel. A Negative Declaration has been prepared for the project in accordance with the State of the California Environmental Quality Act (CEQA) Guidelines.

**O. Supplemental findings—Public Right-of Way Encroachments**

**1. The proposed *encroachment* is reasonably related to public travel, or benefits a public purpose, or all *record owners* have given the applicant written permission to maintain the *encroachment* on their property;**



002568

The project site is located at 7957 Princess Street, the northern terminus of Princess Street, which is a public street and the cul-de-sac located at the terminus of the street is within the public right-of-way. The site contains three legal lots; two of the lots are at the nexus of a coastal bluff and coastal canyon, and the third lot is approximately 436 square feet in size and is located at the terminus of Princess Street. This lot contains an existing detached accessory building located at the terminus of Princess Street which was approved on January 28, 1969, pursuant to Building Permit No. E40921. A portion or 1/3 of this existing accessory building is located within the public right-of-way and the remaining 2/3 of this structure is within the small lot. The previously constructed improvements and modifications (walls, fences, and gate) within the public right-of-way do not encroach further than the existing accessory building. Therefore, the proposed encroachment is reasonably related to public travel.

**2. The proposed encroachment does not interfere with the free and unobstructed use of the public *right-of way* for public travel;**

The northern side of the cul-de-sac, located at the terminus of Princess Street, is within the public right-of-way and does not contain public sidewalks. The previously constructed improvements and modifications (walls, fences, and gate) within the public right-of-way do not encroach further than the existing accessory building. Therefore, the accessory structures do not interfere with the free and unobstructed use of the public right-of way for public travel.

**3. The proposed *encroachment* will not adversely affect the aesthetic character of the *community*; and**

The project site is located at 7957 Princess Street, the northern terminus of Princess Street, west of Spindrift Drive within the LJCP. The community plan designates the proposed project site for single family use (5-9 dwelling units per acre). This range is characterized by single dwelling unit residential homes on 5,000 - 7,000 square foot lots. The surrounding residential development is a mixture of styles, color, and scale. The previously constructed improvements and modifications (walls, fences, and gate) within the public right-of-way do not encroach further than the existing accessory building and are designed to be integrated into to the style and color of the existing single family residence. Therefore, the proposed encroachment will not adversely affect the aesthetic character of the community.

**4. The proposed *encroachment* does not violate any other Municipal Code provisions or other local, state, or federal law; and**

The project site is located at 7957 Princess Street, the northern terminus of Princess Street, which is a public street and the cul-de-sac located at the terminus of the street is within the public right-of-way. The site contains three legal lots; two of the lots are at the nexus of a coastal bluff and coastal canyon, and the third lot is approximately 436 square feet in size and is located at the terminus of Princess Street. This lot contains an existing detached



002569

accessory building located at the terminus of Princess Street which was approved on January 28, 1969, pursuant to Building Permit No. E40921. A portion or 1/3 of this existing accessory building is located within the public right-of-way and the remaining 2/3 of this structure is within the small lot.

The property has several improvements, modifications, and additions by the current owner that were constructed without obtaining an amendment to the original Coastal Development Permits and/or without obtaining building and public improvement permits pursuant to Neighborhood Code Compliance Case No. NC40952. A Civil Penalty Administrative Enforcement Order was issued by an Administrative Hearing Officer on December 26, 2007. This order required the immediate cessation of all work at the property, payment of civil penalty and costs, and all violations to be added to the plans and included in this project. The previously constructed improvements and modifications (walls, fences, and gate) within the public right-of-way do not encroach further than the existing accessory building.

The Coastal Development Permit will be processed and issued by the California Coastal Commission (as an amendment to the original coastal development permit issued by the Commission) once all of the City's actions have been completed. The California Coastal Commission is exclusively responsible for the Coastal Development Permit and or amendments pursuant to Section 126.0717 of the LDC.

**5. For coastal development in the coastal overlay zone, the encroachment is consistent with Section 132.0403 (Supplement Use Regulations of the Coastal Overlay Zone).**

The project site is located at 7957 Princess Street, the northern terminus of Princess Street, west of Spindrift Drive within the LJCP. The site is located in an identified scenic overlook in the LJCP Subarea D, which is described as a scenic view over private properties from a public right-of-way along Princess Street. Additionally, the community plan sites this lot within a major viewshed, an unobstructed panoramic view from a public vantage point from Spindrift Drive. The previously constructed improvements, modifications, and additions to the single family residence would not create any obstruction of these identified viewsheds as the residence is situated much lower than the level of the right-of-way from where the view is observed. The existing view from these identified public viewing locations toward the ocean would not result in any substantial changes.

The Coastal Development Permit will be processed and issued by the California Coastal Commission (as an amendment to the original coastal development permit issued by the Commission) once all of the City's actions have been completed. The California Coastal Commission is exclusively responsible for the Coastal Development Permit and or amendments pursuant to Section 126.0717 of the LDC. Therefore, the encroachments are consistent with Section 132.0403 of the LDC.



C02570

**II. Neighborhood Use Permit - Section 126.0205****Findings for all Neighborhood Use Permits****1. The proposed development will not adversely affect the applicable land use plan;**

The project site is located at 7957 Princess Street, the northern terminus of Princess Street, which is a public street and the cul-de-sac located at the terminus of the street is within the public right-of-way. The site contains three legal lots, two of the lots are at the nexus of a coastal bluff and coastal canyon, and are located in the RS-1-7 Zone. The third lot is approximately 436 square feet in size and is located at the terminus of Princess Street, and is located in the SF Zone of the La Jolla Shores Planned District. This lot contains an existing detached accessory building located at the terminus of Princess Street which was approved on January 28, 1969, pursuant to Building Permit No. E40921. A portion or 1/3 of this existing accessory building is located within the public right-of-way and the remaining 2/3 of this structure is within the small lot. The project site is within the La Jolla Community Plan Area (LJCP), Coastal Overlay Zone (Appealable Area), Coastal Height Limitation Overlay Zone, Sensitive Coastal Overlay Zone, the Beach Impact Area of the Parking Impact Overlay Zone, Residential Tandem Parking Overlay Zone, and Transit Area Overlay Zone.

The project includes improvements, modifications, and additions to the existing single-family residence, the project site, and the accessory structures that have been previously constructed, and a new trellis addition over the deck and a new jacuzzi. The existing detached accessory building, located at the terminus of Princess Street, is proposed to be used as a guest quarters, and would be classified as an accessory use to a single family residence. The zoning designations are for a single family residential and the LJCP designates the proposed project site for single family use (5-9 dwelling units per acre). Therefore, the proposed development will not adversely affect the applicable land use plan.

**2. The proposed development will not be detrimental to the public health, safety, and welfare; and**

This Finding can not be made. The project includes improvements, modifications, and additions to the existing single-family residence, the project site, and the accessory structures that have been previously constructed, and a new trellis addition over the deck and a new jacuzzi. An existing detached accessory building located at the terminus of Princess Street was approved on January 28, 1969, pursuant to Building Permit No. E40921. This existing detached accessory building is proposed to be converted from a non-habitable accessory use into a guest quarters (habitable accessory use). A portion or 1/3 of this existing accessory building is located within the public right-of-way and the remaining 2/3 of this structure is within the property lines. The building records for the detached accessory building indicate that the structure was a "Photo Lab," a non-habitable accessory use. The approval of the permit would grant habitable living space/use within



002571

the public right-of-way, which creates a life and safety issue for those living and sleeping in the structure, a liability for the City, and does not benefit a public purpose. Therefore, the proposed guest quarters use would be detrimental to the public health, safety, and welfare.

**3. The proposed development will comply with the applicable regulations of the Land Development Code.**

The project site is located at 7957 Princess Street, the northern terminus of Princess Street, in the RS-1-7 Zone and the SF Zone of the La Jolla Shores Planned District. The site is within the LJCP, Coastal Overlay Zone (Appealable Area), Coastal Height Limitation Overlay Zone, Sensitive Coastal Overlay Zone, the Beach Impact Area of the Parking Impact Overlay Zone, Residential Tandem Parking Overlay Zone, and Transit Area Overlay Zone. The zoning designations are for a single family residential and the LJCP designates the proposed project site for single family use (5-9 dwelling units per acre).

The project includes improvements, modifications, and additions to the existing single-family residence, the project site, and the accessory structures that have been previously constructed, and a new trellis addition over the deck and new jacuzzi. The existing and proposed development is consistent with the development regulations on size, location, and setbacks, and the intent of the regulations for the sensitive coastal bluffs guidelines. The accessory structures do not interfere with the free and unobstructed use of the public right-of way for public travel.

The Coastal Development Permit will be processed and issued by the California Coastal Commission (as an amendment to the original coastal development permit issued by the Commission) once all of the City's actions have been completed. The California Coastal Commission is exclusively responsible for the Coastal Development Permit and or amendments pursuant to Section 126.0717 of the LDC. Therefore, the proposed development will comply with the applicable regulations of the LDC.

BE IT FURTHER RESOLVED that, based on the findings hereinbefore adopted by the Planning Commission of the City of San Diego, Site Development Permit No. 482270 and Neighborhood Use Permit No. 581890 is hereby DENIED by the Planning Commission to the referenced Owner/Permittee.

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Jeffrey A. Peterson  
Development Project Manager  
Development Services

Adopted on: October 2, 2008

Job Order No. 42-8447

cc: Legislative Recorder